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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

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Julie Nauman, Acting Chief Deputy Director

Scott Walker, Acting Deputy Director

Mark de Bie

Elliot Block, Staff Counsel

Bob Holmes

Christine Karl

Keith Kennedy

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PROCEEDINGS

CHAIRPERSON PAPARIAN: Good morning, everybody.

This is a meeting of the Integrated Waste Management Board's Permitting and Enforcement Committee.

Welcome.

Just as a reminder, if you could turn off your cell phones and pagers or turn them to vibrate so they don't bother the folks in the room, that would be appreciated.

There are speaker slips at the back of the room. If you would intend to speak on any item, if you could fill one of those out and give it to Ms. Farrell down here in the white blouse in the front of the room, that would help move things along.

We have quite a few items on the agenda today. We have two Regulation packages that have gotten a lot of attention, the C&D regs and the compost regs.

You'll note that the C&D regs are at the end of the agenda. Depending on how things go, it might turn out that we take them up after lunch. But if we're able to move through other items quickly, it's possible that we could start on that item before lunch.

This Committee hearing today though is scheduled for a full day, if needed.

If we're getting very close to being done at

1 lunch time, my inclination will probably be just to work
2 through and finish. But, again, we'll see how we're doing
3 closer to that time.

4 I don't think that we'll have to put much of a
5 limit on people's testimony. But depending on how many
6 people are going to testify on the reg packages, it's
7 possible we might put a time limit on testimony.

8 We have a couple of items that have been pulled
9 from the agenda. And I think maybe I'll let Mr. Walker go
10 over that in his Deputy Director's report.

11 But before we get to that, do any of the members
12 have anything they want to add before we start?

13 No.

14 Any ex partes that we need to declare?

15 COMMITTEE MEMBER CANNELLA: None for me.

16 CHAIRPERSON PAPARIAN: You're up to date.

17 Mr. Medina, you're to date.

18 CHAIRPERSON PAPARIAN: Mr. Jones.

19 COMMITTEE MEMBER JONES: I saw a fax from city of
20 San Francisco on our compost regs.

21 CHAIRPERSON PAPARIAN: And I'm up to date.

22 Okay. Mr. Walker.

23 ACTING DEPUTY DIRECTOR WALKER: Thank you. Scott
24 Walker, Permitting --

25 COMMITTEE MEMBER JONES: You want to take roll?

1 CHAIRPERSON PAPARIAN: Oh, hold on.

2 Thanks.

3 Mr. Jones just reminded me that I neglected to
4 take roll.

5 So the secretary will call the roll.

6 SECRETARY FARRELL: Cannella?

7 COMMITTEE MEMBER CANNELLA: Here.

8 SECRETARY FARRELL: Jones?

9 COMMITTEE MEMBER JONES: Here.

10 SECRETARY FARRELL: Medina?

11 COMMITTEE MEMBER MEDINA: Here.

12 SECRETARY FARRELL: Paparian?

13 CHAIRPERSON PAPARIAN: Here.

14 Go ahead, Mr. Walker.

15 ACTING DEPUTY DIRECTOR WALKER: Thank you.

16 Scott Walker, Permitting and Enforcement
17 Division.

18 I have five brief items for the Deputy Director's
19 report. And the first thing, as you mentioned, about
20 pulled items, I'll just start off with that.

21 The Item C, which is consideration of a revised
22 full solid waste facilities permit for the Antelope Valley
23 Landfill, which is Board Item 44, the time lines have been
24 voluntarily waived based on a letter from the operator
25 and, therefore, the permit pulled. We received some late

1 comments from the city of Palmdale, and it really needs
2 further work to resolve before we could bring that permit
3 back for consideration.

4 I'd like to report on the first of the items for
5 the Deputy Director's report.

6 COMMITTEE MEMBER MEDINA: Excuse me.

7 Is that the only item pulled, C?

8 ACTING DEPUTY DIRECTOR WALKER: Right now, yes,
9 that's the only item here. We previously had the Amador
10 County Buena Vista Landfill permit, which was pulled prior
11 to the meeting and is not on the agenda. And that was --
12 again, that permit, there was some further work that we
13 needed to do with the LEA because there were some
14 inconsistencies with the permit and the report of disposal
15 site information that we're working out. And hopefully
16 we'll be back in December.

17 The first item is that we've -- preliminary
18 planning has started for our next Committee workshop to be
19 held in January. We've had two so far, and this would be
20 the third one. We had to take a break this month because
21 of the workload that we had in this agenda.

22 The topic of this workshop is anticipated to be
23 the Permitting & Enforcement Division's component of the
24 Board's Strategic Plan.

25 The second item is the status of LEA partnership

1 efforts. And again this was our first Committee workshop.
2 And we had a -- in our LEA conference in August we had
3 followed up on that with a list of future issues that we
4 developed at the workshop with some sessions.

5 I'd like to report on a summary of where we are
6 on the follow-up. And the list of future issues was
7 circulated amongst our key partnership members, which
8 include the California Conference of Directors of
9 Environmental Health Solid Waste Policy Committee, the
10 Enforcement Advisory Council, and Board staff.

11 Simultaneously the CCDEH and EAC via the LEA
12 roundtables that we just completed gathered input via
13 their own survey of the partnership. In December we
14 should have a short list of those top issues that I'll
15 find important to work on throughout the year.
16 Collectively we will decide how to approach resolution of
17 those issues and what the goals will be.

18 I will continue to provide periodic reports on
19 the partnership's progress to this Committee. And I'd
20 also like to acknowledge Sharon Anderson for leading our
21 part in this effort.

22 The third item to report is that the second cycle
23 of LEA evaluations is near completion. And we anticipate
24 reporting back to the Committee in the first quarter of
25 next year.

1 I'd like to thank Gabe Aboushanab for doing a
2 really good job coordinating this effort.

3 The fourth item is to report on our activities
4 with regard to the Newcastle disease outbreak in southern
5 California. Newcastle disease is a deadly viral infection
6 of birds that can seriously damage wildlife and the
7 commercial poultry industry. Right now the disease is
8 localized. Board staff is working with Cal/EPA, Office of
9 Environmental Services, and California Department of Food
10 and Agriculture to ensure that we provide needed
11 assistance on the solid waste aspects of this outbreak.
12 In other words there is a component of managing the dead
13 birds through our solid waste system.

14 We also are working directly with them for
15 preparations should this outbreak spread.

16 We work with CDFA on other issues related to
17 animals and solid waste aspects. And I'd like to thank
18 Bob Holmes for doing a really good job leading our effort
19 and coordination, and also with the assistance of Bernie
20 Vlach on that.

21 And, finally, I'd just like to point out that
22 today the city of Sonoma is hosting a public event with
23 U.S. EPA to acknowledge the Board and others in the
24 cleanup of the city of Sonoma burn dump site. And I
25 believe that Todd Thalhamer is attending that on behalf of

1 the Board.

2 So with that, I conclude my Deputy Director
3 report. And if there's no further questions, I'd like to
4 hand it back to the Chair.

5 CHAIRPERSON PAPARIAN: Thank you.

6 Any question?

7 Mr. Jones.

8 COMMITTEE MEMBER JONES: Just a question on the
9 virus. Are the LEA's in the affected area in contact with
10 the disposal sites? Are there special handling that those
11 operators have been made aware of?

12 ACTING DEPUTY DIRECTOR WALKER: Absolutely. And
13 that's part of the role that we play, is to interface with
14 the LEA's and the operators to ensure that everybody's
15 notified and prepared, and we facilitate the communication
16 with CDFA and OES.

17 There's also the haulers too that we help the
18 contacts to make sure they're using the proper haulers and
19 they know who to talk to if they need to move the dead
20 birds to the facilities.

21 COMMITTEE MEMBER JONES: Okay. Thanks.

22 CHAIRPERSON PAPARIAN: Any other questions?

23 Mr. Leary, did you have anything for us?

24 No.

25 Okay. Why don't we just go ahead with the first

1 item on our agenda, which is Item D related to the
2 Florin-Perkins Landfill.

3 ACTING DEPUTY DIRECTOR WALKER: Yes, Item D is
4 consideration of a revised full Solid Waste Facilities
5 Permit (Transfer/Processing Station) for the
6 Florin-Perkins Landfill, Incorporated Material Recovery
7 Facility and Transfer Station, Sacramento County. This is
8 Board Item 45.

9 Mary Madison-Johnson will provide the staff
10 presentation.

11 MS. MADISON-JOHNSON: Good morning.

12 This facility is operated by Florin-Perkins
13 Landfill, Incorporated. The proposed permit is to allow
14 the following:

15 The change in hours of operation, allow the
16 addition of mechanical processing equipment, and expand
17 the transfer processing area from 1.5 acres to 2.5 acres.

18 At the time the item was prepared staff could not
19 make a recommendation for Board action because there were
20 outstanding violations.

21 Since the item was prepared Board staff have
22 conducted four inspections and verified the violations of
23 minimum standards have been corrected.

24 However there still remains an outstanding
25 violation of Public Resources Code Section 44014(b), Terms

1 and Conditions of the Permit. Specifically the operator
2 has yet to clearly define and delineate the permitted
3 boundaries of the facility. The southern permitted
4 boundary of the transfer station is still undelineated,
5 and it was noted during the inspection that a stockpile of
6 wood waste from the adjacent grinding activity is
7 overlapping into the transfer-station-permitted boundary.

8 This stockpile has further complicated efforts to
9 delineate the transfer station's permitted boundary.
10 Without a clear boundary that identifies the facility, it
11 is impossible to determine if the facility is in
12 compliance with its permit, and it's difficult to
13 determine how the overlapping activities should be
14 addressed.

15 Staff understands that the operator is attempting
16 to correct this violation and have the property surveyed
17 so that a permanent boundary can be physically delineated.

18 If the boundary is clearly identified prior to
19 the Board meeting, staff will recommend that the Board
20 concur with the proposed permit.

21 If the boundary is not clearly identified prior
22 to the Board meeting, staff recommends that the Board
23 concur with the permit as proposed and direct staff to
24 direct the LEA per California Code of Regulations Title
25 14, Section 18350, to take appropriate action regarding

1 the operator to physically delineate the boundary and to
2 cease activities that are not allowed to occur on the
3 site.

4 We were informed that the operator is forming an
5 alternative to some of the language in the proposed
6 permit. But we're not sure how that will play out. At
7 this time we have to consider the permit as proposed.

8 The LEA and the operator are present to answer
9 any questions that you may have.

10 And this concludes staff's presentation.

11 CHAIRPERSON PAPARIAN: Thank you.

12 Actually I think what might be helpful at this
13 point is to go -- because I think this is the first one
14 like this Mr. Cannella's seen. I'm a little bit rusty on
15 this myself. If we can walk through, maybe the legal
16 office help us a little bit.

17 What you said was in your pre-permit inspections
18 you initially noted some state minimum standards
19 violations?

20 MS. MADISON-JOHNSON: Correct.

21 CHAIRPERSON PAPARIAN: But those were corrected.

22 MS. MADISON-JOHNSON: We originally found some
23 state minimum standard violations, but those were
24 corrected. And during our reinspection we found this
25 continuing issue with the permit -- Public Resources Code

1 requirements.

2 CHAIRPERSON PAPARIAN: Okay. And so the
3 continuing violation has to do with -- why don't you
4 explain that again.

5 MS. MADISON-JOHNSON: It has to do with Public
6 Resources Code 44014(b), Terms and Conditions of a Solid
7 Waste Facility Permit, where specifically the operator has
8 not delineated clearly the southern boundary of the
9 transfer station. The reference there, the section
10 requires that that property be fully delineated when
11 concurring or considering a solid waste facility permit.

12 CHAIRPERSON PAPARIAN: Okay. And from our Legal
13 Office perspective is there any issue here?

14 MR. de Bie: It looks like they're conferring
15 over there. So one thing I would like to do -- Mark de
16 Bie with Permitting Inspection -- is just restate what
17 Mary said in different words.

18 The permit application and permit as submitted
19 clearly indicates that this is a 10-acre site with defined
20 boundaries. However, when you go out there, you can't
21 really distinguish this one boundary. There's this
22 large -- at least the last time we were out there, a large
23 quantity of wood chips over that boundary. The Boundary
24 isn't straight. It seems to meander a bit. And so
25 basically staff is in a position where we can't inform the

1 Committee that we can clearly delineate that boundary and
2 report to the Board that this site is designed as reported
3 in the documentation.

4 And so because of that we can't say, you know,
5 everything's totally consistent.

6 But we're in between -- we're in a time where
7 supposedly the operator will be able to delineate the
8 boundary between Committee and Board meeting. We don't
9 have assurances of that fact. We can't predict the
10 future. But they have indicated that they're taking all
11 possible steps to do that.

12 So in the likelihood that they could delineate
13 the boundary prior to the Board meeting, we would like to
14 recommend to the Committee that they bring this forward,
15 indicating that in the event that they are able to
16 delineate the boundary, that there are no other
17 outstanding issues and that the permit could be concurred
18 on by the Board.

19 However, given the fact that between now and the
20 Board meeting the boundary could not be delineated, staff
21 is not finding that this is one of the criteria that the
22 Board could clearly use to not concur on the permit, to
23 object to the permit, because it's not relative to
24 necessarily state minimum standards or how the site is
25 operated or designed.

1 And we feel that it would be more appropriate to
2 allow the permit to go forward and then have staff direct
3 LEA's through the enforcement regulations to take out
4 immediate enforcement action to require the operator to
5 continue the progress that they are currently undertaking
6 to delineate that boundary.

7 And the holdup is basically they're getting a
8 survey out there to actually officially survey the site.
9 And that has taken some time to, you know, locate a
10 surveyor that's available to them and then, you know, set
11 up the conditions that that can occur.

12 So that's what the operator is dealing with at
13 the moment.

14 CHAIRPERSON PAPARIAN: Okay. Let me just turn to
15 the Legal Office first to see if they have anything they
16 want to offer on this.

17 CHIEF COUNSEL TOBIAS: I don't disagree with Mr.
18 de Bie's summary of this. But I would like some more time
19 to look at it. I think this site has a very long history
20 of enforcement problems. And so, you know, I think the
21 issue of staff saying that they'd like to concur in this
22 if the applicant can verify the boundary by the Board
23 meeting gives us enough time to both look at that and to
24 look at, you know, whether there's anything else we can do
25 with this.

1 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

2 COMMITTEE MEMBER JONES: Thanks.

3 Are you -- you're saying that them not
4 delineating the boundaries is not grounds for us not to
5 give a permit? I mean I don't understand that. We don't
6 want to give permits when CEQA isn't sure which way a
7 truck's going to turn. How in the heck can we not -- how
8 in the heck can we say, "You don't have to define it?" We
9 did the same thing down in -- for a composting facility
10 that was working with another operator where they had to
11 delineate that line because the Board wasn't going to give
12 a permit.

13 MR. de Bie: The line is delineated in the
14 submittal in the application and the technical documents.
15 You know, it's clearly drawn and done by an engineer.
16 However, when you go out to the site and you try to find
17 that particular line, you find it difficult to do that
18 because there are activities -- adjacent activities that
19 overlap with that line.

20 COMMITTEE MEMBER JONES: Is the operator here?

21 MR. de Bie: Yes.

22 COMMITTEE MEMBER JONES: Can they come forward so
23 we can ask them questions? If that's okay, Mr. Chair.

24 CHAIRPERSON PAPARIAN: That's fine.

25 Please identify yourself for the record.

1 MR. BROWN: My name is Cal Brown. I'm an
2 employee of Florin-Perkins Landfill, Inc.

3 COMMITTEE MEMBER JONES: Do you have an
4 association with Berry Street Mall as well?

5 MR. BROWN: Yes.

6 COMMITTEE MEMBER JONES: And that's one that's
7 been on the chronic violator list and I think has been
8 abandoned?

9 MR. BROWN: It's now been closed, that's correct.

10 COMMITTEE MEMBER JONES: There were issues there
11 about burying garbage on a closed landfill. Have those
12 been rectified?

13 MR. BROWN: Yes, they have.

14 COMMITTEE MEMBER JONES: Has the stuff been dug
15 up?

16 MR. BROWN: It's been dug up to the satisfaction
17 of the LEA. But we're still working with the city on some
18 cleanup of some rubble.

19 COMMITTEE MEMBER JONES: Okay. And now
20 Florin-Perkins is an exempt landfill. I guess it was
21 exempted by the Water Board or something because it's
22 supposed to be inert?

23 MR. BROWN: That's correct.

24 COMMITTEE MEMBER JONES: How much contamination,
25 how much putrescible garbage, how much garbage goes into

1 that inert site everyday? What's your -- what's an
2 acceptable limit of how much stuff other than inert
3 material can go into that site? Because I see trucks
4 going in there all the time that are hauling things that
5 aren't inert.

6 MR. BROWN: No, that's correct. We have on
7 site -- there's a material recovery facility, the chipping
8 and grinding operation, and the inert landfill. So the
9 trucks you see going in there with trash are more than
10 likely going to the MERF. The inert landfill is for
11 inerts only and roofing shingles. It is included with the
12 inert -- in the inert landfill. The roofing shingles, if
13 you saw those, would not be going to the MERF or the
14 recycling.

15 COMMITTEE MEMBER JONES: Okay. Now, when you
16 were operating the Berry Street Mall how much material got
17 buried in that closed landfill?

18 MR. BROWN: There was no material buried in the
19 closed -- within the closed footprint of the -- in the
20 footprint of the closed landfill. There's an area just
21 west of the transfer station building where there was some
22 C&D, some concrete rubble, and a mix of dirt and waste
23 that was put on that site. That's what the LEA objected
24 to. But there was never any garbage buried within the
25 footprint of the closed landfill.

1 COMMITTEE MEMBER JONES: Okay. I'm looking back
2 at the LEA to see if that's -- because I did some
3 operations there. And it made me a little crazy when we
4 put you on the chronic violator list for burying materials
5 as well as other state minimum standards.

6 I guess -- I've always been more concerned that
7 that landfill takes in an awful lot of stuff that isn't
8 just inert.

9 And we get real loosey-goosey with that term
10 "inert." And is our staff looking at -- I mean what makes
11 me the most nervous about this is we've got a boundary
12 that doesn't seem to be up to something that you can
13 figure out what it is, which I don't doubt at all, and
14 then an awful lot of trucks that go in there that carry
15 stuff other than inert material. I mean I see them
16 hauling stuff out of Roseville and Placer County down to
17 Florin-Perkins Landfill because it's the cheapest one
18 around. And when I'm seeing papers and stuff blow out of
19 there, that makes me a little bit nervous that that
20 stuff's going into that, quote-unquote, inert landfill.

21 MR. BROWN: Again, the only way I can respond is
22 that the MERF, the material recovery facility, accepts
23 that kind of material. And it's sorted for the
24 recyclables.

25 COMMITTEE MEMBER JONES: When do you think you're

1 going to have your thing surveyed?

2 MR. BROWN: Hopefully by the end of this week.

3 When I left the office this morning they were working on
4 getting a surveyor out there to establish that line.

5 COMMITTEE MEMBER JONES: Okay. And then our
6 staff said that there were issues you were still
7 negotiating with the LEA as far as terms and conditions on
8 that permit?

9 MR. BROWN: There's some question, and I believe
10 between staff and the LEA, as to the percentage of
11 putrescibles that's allowed.

12 COMMITTEE MEMBER JONES: Oh. What's your view?

13 MR. BROWN: My view of --

14 COMMITTEE MEMBER JONES: Yeah, how much do you
15 think should be allowed?

16 MR. BROWN: I'd like to see about 10 tons.

17 COMMITTEE MEMBER JONES: Ten tons based on how
18 much stuff coming in?

19 MR. BROWN: Two hundred tons a day. Oh, I'm
20 sorry. Two hundred fifty tons a day is what we're
21 presently permitted for. Our land-use permit calls for
22 500 tons a day.

23 COMMITTEE MEMBER JONES: So of the 250 tons
24 that's coming in every day, 10 tons of it is putrescible
25 waste?

1 MR. BROWN: It is now. We would like to have it.

2 I'm sorry. Let me backup.

3 Not for the landfill. For the permit that's on
4 the desk this morning. Not for the landfill, but for our
5 solid waste facilities permit. For the MERF we'd like to
6 have 10 tons of putrescible included in the 250 tons.

7 COMMITTEE MEMBER JONES: Okay.

8 MR. de Bie: If I may -- mark de Bie again --
9 clarify. Currently the permit indicates that the facility
10 would be allowed to take 250 tons of solid waste per day.
11 And then that 250 tons is qualified as indicating that no
12 more than 2 percent putrescible waste on a daily basis by
13 weight. So 2 percent of 250 is 5 tons, correct?

14 Right.

15 Mr. Brown indicated that the LEA and the board
16 staff were looking at a different percentage or a
17 different tonnage per putrescibles. I believe the LEA is
18 fine with 2 percent and I know the Board staff are fine
19 with 2 percent. So the issue isn't necessarily between
20 LEA and Board staff on what the proper percentage should
21 be. It's just that we have heard from the operator that
22 they are -- as you heard Mr. Brown saying, 10 tons, which
23 is the equivalent to, what would it be, about 4 percent?

24 Four percent.

25 COMMITTEE MEMBER JONES: Where would that

1 putrescible end up? If you culled it out of your MERF,
2 where would it go?

3 MR. BROWN: It goes Kieffer Landfill.

4 COMMITTEE MEMBER JONES: Okay. Thanks, Mr.
5 Chair.

6 CHAIRPERSON PAPARIAN: Okay. Mr. Medina.

7 COMMITTEE MEMBER MEDINA: Yes. I just wanted to
8 make certain that before a revised permit is issued that
9 staff verify that the information provided by the
10 applicant is correct. I'm concerned that the applicant
11 was cited previously for a PRC 44004 and that the operator
12 identified an area for construction of the cement
13 processing pad in the documents submitted. However, the
14 processing pad was built in a different location. It was
15 identified as a 1.5 acre area and it turned out to be a
16 2.5 acre pad. So I just want to make certain that any
17 information that is provided, that it be very carefully
18 scrutinized to make certain that it is accurate.

19 CHAIRPERSON PAPARIAN: Okay. Mr. Cannella.

20 COMMITTEE MEMBER CANNELLA: Well, I'm also, like
21 Mr. Jones, a little concerned that we don't have a
22 boundary that we can enforce.

23 But my other question is: That information I
24 have that the landfill is operating under an exemption
25 from a full solid waste facility permit; is that correct?

1 MS. MADISON-JOHNSON: Yes, that is correct.
2 Because of the type of waste that is actually disposed
3 there, the LEA held a public hearing and, as required in
4 the regulations, they were able to make the three findings
5 and have issued the facility an exemption from the
6 requirement of having a permit.

7 COMMITTEE MEMBER CANNELLA: Okay. But they got a
8 permit in '96, correct?

9 MS. MADISON-JOHNSON: That's for the transfer
10 station. There's various activities going on here at this
11 facility. And this one -- the permit that is in front of
12 you today is only for the transfer station.

13 COMMITTEE MEMBER CANNELLA: So we're revising the
14 permit for the transfer station?

15 MS. MADISON-JOHNSON: Yes.

16 COMMITTEE MEMBER CANNELLA: Okay. The second
17 question I have is, that the LEA was incorrectly recording
18 the activities at site?

19 MS. MADISON-JOHNSON: What they -- I think what
20 you're referring to is prior -- several years ago the LEA
21 was inspecting the facility and using one type of
22 inspection report which was getting confusion as to what
23 violations occurred at the landfill and what occurred at
24 the transfer station.

25 The LEA is present if you would like to address

1 that.

2 COMMITTEE MEMBER CANNELLA: No. My question to
3 you though is, has the LEA who was doing that incorrectly
4 been trained, are they certified? Are we going to have
5 that problem again?

6 MS. MADISON-JOHNSON: Actually, Mr. Cannella, the
7 LEA has changed their staff. We're very comfortable with
8 the current staffing. They are doing their job as
9 required. And we do oversee them and do offer a lot of
10 assistance to them too.

11 COMMITTEE MEMBER CANNELLA: Okay.

12 MS. MADISON-JOHNSON: We are comfortable with the
13 LEA and the staffing that currently exist.

14 COMMITTEE MEMBER CANNELLA: My biggest concern is
15 getting a permit and defining a boundaries and then not
16 being able to enforce the activities on those boundaries.
17 And like some of the other members, I have a great deal of
18 concern that we allow for activities and permit for a
19 certain area, and then we're not able to go out there and
20 readily see that the activities are being confined within
21 those boundaries that were delineated.

22 CHAIRPERSON PAPARIAN: Could you go over -- the
23 minimum standard violations that we noted earlier that
24 were corrected, could you go over what types of
25 violations, the nature of those violations. You said when

1 our staff went out initially they noted some state minimum
2 standards violations that were subsequently fixed?

3 MS. MADISON-JOHNSON: Correct. Yes, let me find
4 the right page in the agenda item.

5 If you refer to page 45-6, we found a
6 storage-of-salvage violation. There were C&D finds stored
7 in excess of 45 days; and because of the boundary issue,
8 we weren't able to determine whether that was on the
9 transfer station or not.

10 There was a hazardous waste violation. The
11 proposed transfer processing report stated screening
12 procedures and work area isolation protocols were
13 followed. The approved plan keeps potentially
14 incompatible material in separate lockers. The operator
15 identified a locker container with batteries only.
16 However, workers were placing the latex paint and gasoline
17 can inside the battery-only locker because they were
18 unable to find the key. So that was an issue.

19 The transfer processing report did not adequately
20 describe the facility.

21 The hazardous waste violation was corrected. And
22 it did not appear any waste was brought into the facility
23 prior to 8 a.m. There were concerns about time
24 operations.

25 Those were the previous originally cited state

1 minimum standard violations. Those three.

2 CHAIRPERSON PAPARIAN: Okay Now, if they -- if
3 the boundary isn't clearly identified -- you're confident
4 that that first one is the storage -- the C&D finds
5 storage, that that's actually fixed?

6 MS. MADISON-JOHNSON: I'm sorry.

7 CHAIRPERSON PAPARIAN: I'm not asking that well.

8 MS. MADISON-JOHNSON: Excuse me, Mr. Paparian.
9 Can you repeat that.

10 CHAIRPERSON PAPARIAN: Yeah, the storage of
11 salvage material --

12 MS. MADISON-JOHNSON: Uh-huh.

13 CHAIRPERSON PAPARIAN: -- has the material been
14 moved? What fixed that violation?

15 MS. MADISON-JOHNSON: I'm going to need to ask
16 the LEA to come up and help me with that. My staff wasn't
17 able to attend today, so I'm going to need some LEA
18 assistance.

19 CHAIRPERSON PAPARIAN: Okay. Why don't you come
20 up forward. You can actually use that microphone over
21 there, if you'd like.

22 And if you could cue identify yourself for the
23 record.

24 MR. KALVELAGE: My name is Steve Kalvelage. I'm
25 the supervisor with the Sacramento County Local

1 Enforcement Agency.

2 And in answer to your specific question about the
3 storage of those salvage finds, those were moved off of
4 that 10-acre area that we're calling the transfer station
5 to a different area on the 160-acre overall site. So
6 those are no longer in violation of the 10 acres that
7 we're talking about today, the transfer station.

8 CHAIRPERSON PAPARIAN: Okay. But you're
9 confident they were moved far enough that even though we
10 don't quite know the boundaries of those 10 acres, that
11 they're off of whatever the boundaries would be?

12 MR. KALVELAGE: Yes. They're at least 500 yards
13 away from any adjacent 10-acre boundary line.

14 There may be some confusion, because as we
15 started initially discussing, delineating that line is
16 giving us trouble because of the chipping and grinding
17 operation on site. Those are different from these
18 original finds that we talked about. That's a
19 different -- stack-up wood chipping material, if that
20 makes it clearer.

21 CHAIRPERSON PAPARIAN: Yeah. Any other questions
22 for the LEA?

23 Mr. Jones.

24 COMMITTEE MEMBER JONES: One of the things -- and
25 I don't know if it was that it was going to the transfer

1 station. I think you said it was going to the landfill,
2 the inert and roofing material, is that --

3 MR. BROWN: Roofing material isn't -- the asphalt
4 shingles -- asphalt and fiberglass shingles are included
5 by the Regional Water Quality Control Board to be disposed
6 of in the inert landfill.

7 COMMITTEE MEMBER JONES: Okay. But no shake?

8 MR. BROWN: No shake, no.

9 COMMITTEE MEMBER JONES: All right. So we've got
10 an existing landfill and then they've kind of delineated a
11 10-acre space in the middle of it, no structures, just
12 activity, part of it on a concrete pad. And that's the
13 piece that we're looking at.

14 Okay. The issues with the hazardous waste and
15 other things, I know one of the things you have to check
16 for is a training program. Do you feel like -- that those
17 mistakes were just honest mistakes, or do they have a
18 training program in place that hopefully gets these
19 employees to understand how that material --

20 MR. KALVELAGE: Tammy Derby is the field
21 inspector for that site. She's here as backup to me.

22 MS. DERBY: Hi. My name's Tammy Derby. To
23 answer your question about their training program. They
24 do have a training program. They have a training
25 schedule. And they have a satisfactory program, to answer

1 your question, whether we feel that that program is
2 being -- well, your question was was it an honest mistake.
3 And, No, I believe that they violated their processes
4 and --

5 COMMITTEE MEMBER JONES: For lack of training?

6 MS. DERBY: Well, it was more a lack of
7 supervision, I would say, than training. I did interview
8 the load checking staff and they did answer the questions
9 appropriately. They were pulling the proper materials out
10 of the waste stream. But because they didn't have access
11 to the proper storage facility, they were doing the second
12 best thing, which was to put it into this adjacent storage
13 facility.

14 COMMITTEE MEMBER JONES: Okay. Thank you.

15 CHAIRPERSON PAPARIAN: Anything else for the LEA?
16 Okay. Thank you.

17 Let me just ask this question. If we have a
18 permit without a defined, a clearly defined boundary, it
19 almost seems to me like we have an option where we could
20 say that that permit that is before us is not in
21 satisfactory condition if we wanted to.

22 I'm turning to Ms. Tobias now.

23 CHIEF COUNSEL TOBIAS: You know, I think, as I
24 said earlier, it would be best if the Committee moved this
25 forward to the Board so that we could have some more time

1 to do it. Clearly if we have a permit that does not have
2 a clear boundary, it's an enforcement problem. We can't
3 go out there and say, you know, "You violated by having
4 the storage over here" or over here if we don't know where
5 that line is.

6 So I think, you know, what staff has said is that
7 we -- hopefully you should be able to verify where that
8 boundary is by Friday. And then we can come to the Board
9 meeting and go over this. In the meantime, you know,
10 maybe we can kind of line out, you know, how this works
11 legally.

12 But basically under 44009, where the Board can
13 deny a permit or not concur in a permit because of
14 violations of state minimum standards, they don't have
15 that ability on the basis of violation of permit
16 conditions.

17 Probably because -- on just a common sense basis,
18 if there's a problem with a permit condition, you'd be
19 fixing it in that permit with the conditions. This may go
20 all the way back to a problem with accepting the
21 application as complete. And I think it does show that,
22 you know, we need to make sure that both the LEA's and our
23 staff, you know, are checking boundaries and things like
24 that when we accept an application as complete. Once that
25 application is accepted as complete, it's pretty hard to

1 go backward and say, oh, now there's a problem.

2 So I think what we're trying to do at this point
3 is fix the problem by trying to delineate the boundaries
4 by Friday. If they can't do that, then we'll bring
5 forward what your legal choices are at the Board meeting.
6 Would that suffice?

7 CHAIRPERSON PAPARIAN: Let's hear from the other
8 Board members if they have anything to add on thing.

9 Mr. Jones and then Mr. Cannella.

10 COMMITTEE MEMBER JONES: Thanks, Mr. Paparian.

11 Yeah, I think there's enough history at this
12 Board that if we don't have a defined boundary, we have
13 not given permits. I mean we have said, "You got to get
14 this fixed before we could ever take a vote on it." And
15 it would seem to me that it's not just so much a violation
16 of state minimum standards, but that it's -- you know, the
17 LEA was given a document by the operator that supposedly
18 delineated the boundaries. When the LEA and staff went
19 tout there, they couldn't make the delineation. That's
20 clearly not having a permit application in a proper form,
21 and that's grounds not -- or to deny or not concur in a
22 permit.

23 So that would be exactly what my take would be on
24 this thing. And there's too much history with those
25 operators that operate by the rules all the time and get

1 faced with, you know, what direction is a car going to go
2 once it enters a permitted facility, that, you know, for
3 the sake of permit equity, you know, I'm not prepared to
4 even entertain this thing until it's completely
5 delineated, because it's not fair to everybody that does
6 play by the rules. And clearly there's issues at this
7 facility, both on -- you know, I mean there are some long
8 history of issues at this facility. And I'm not prepared
9 to just, you know, blanket give them a permit because I
10 just don't think it fixes, you know, what's been a
11 historic problem.

12 CHAIRPERSON PAPARIAN: Mr. Cannella.

13 COMMITTEE MEMBER CANNELLA: Well, along the theme
14 of Mr. Jones, is I don't understand how they got a permit
15 if they didn't have defined boundaries that were included
16 in the documentation before the permit. But even more
17 than that, this site has a long history of problems.

18 I need a clarification from counsel. Did you say
19 that the past experience and the consistent problems that
20 they've had is not grounds for denying or accepting the
21 recommendations for a permit?

22 CHIEF COUNSEL TOBIAS: That's basically correct.
23 In 44009, it lays out the basis upon which the Board
24 cannot concur. And so what you have to do in these
25 permits is that -- the law makes a distinction between the

1 permitting aspect of these facilities and the enforcement
2 aspect of these facilities.

3 So that's why when staff was saying that their
4 recommendation was to go ahead and concur with the permit,
5 but then to have the LEA issue an enforcement order. So,
6 you know, I do think -- one of the things that I think,
7 you know, would be good to bring back to the Board is
8 somewhat a little bit more of the chronology here of
9 what's happened, you know, where we are with this
10 particular issue of the permit boundary in this particular
11 area.

12 But you do have to make a distinction between
13 permits and enforcement. And I think this is a good
14 example of where that line might be drawn between them. I
15 agree with Mr. Jones and I agree I think with where you're
16 going, Mr. Cannella, that this site has a long history of
17 violations. I think that, you know, all of us would like
18 to see those violations stopped and addressed. And I
19 think that that's what this permit does, is it puts in
20 some of the requirements that have been -- I don't want to
21 say lacking in the permit -- but weren't in the permit,
22 and gives both the LEA and the Board a better ability to
23 enforce in the future than we've had with the way that the
24 facility's been dealt with in the past.

25 COMMITTEE MEMBER CANNELLA: And if you can't

1 reject or not comply with the recommendation, what
2 incentive is there for any operator to comply?

3 CHIEF COUNSEL TOBIAS: Well, I think -- I might
4 rephrase the question of what would be the incentive to
5 get the permit. I think what we're trying to do here is
6 to basically get this facility at a point where it can be
7 permitted in a finite way so that we do have all those
8 rules and regulations in place. And then they will be
9 required to comply with those. There's been a lot of, I
10 think, more open-ended issues with this permit, and I
11 think this -- you know, I think there's been a situation
12 of taking advantage of the situation with that. So I
13 think what this permit does is tries to basically, you
14 know, tack down the corners and then moves it to an
15 enforcement level of what needs to be done with this
16 particular facility if they can't stay in compliance with
17 the facility.

18 I understand that it's frustrating. But it's my
19 understanding based on what I've heard today that this is
20 where it works.

21 COMMITTEE MEMBER CANNELLA: Mr. Chairman, then if
22 we're looking for direction, it would be my recommendation
23 that we deny the recommendation and forward it to the full
24 Committee without -- with a recommendation of denial until
25 they -- if they come forward with all of the boundaries

1 and everything else that has to be done, then the full
2 Committee can make a decision then.

3 CHAIRPERSON PAPARIAN: Okay. So your suggestion
4 is, based on what we have before us, to deny the permit;
5 but that if more information comes forward in the next
6 week, that we would be open to reconsideration at the
7 Board meeting?

8 COMMITTEE MEMBER CANNELLA: Yes, the full Board
9 would be able to do that. And when it's appropriate, I
10 would make that a motion.

11 CHAIRPERSON PAPARIAN: Okay. Before you make
12 that motion, I want to give the operator one more chance,
13 based on anything he's heard, if he wants to add anything.

14 MR. BROWN: No, I have nothing to add.

15 CHAIRPERSON PAPARIAN: Okay. So Mr. Cannella, as
16 I understand your motion, your motion is to deny this
17 permit based on the incompleteness of the application --

18 CHAIRPERSON PAPARIAN: -- and it would be
19 forwarded to the Board from this Committee as a
20 recommendation of denial.

21 CHAIRPERSON PAPARIAN: Forwarded with a
22 recommendation of denial, with the understanding that if
23 more information comes forward, we'll all be open to
24 hearing --

25 COMMITTEE MEMBER CANNELLA: And the full Board

1 has the opportunity to make that decision.

2 COMMITTEE MEMBER JONES: I'll second.

3 CHAIRPERSON PAPARIAN: Okay. Motion by Mr.
4 Cannella and seconded by Mr. Jones.

5 Mr. Medina, did you have something to add?

6 COMMITTEE MEMBER MEDINA: I did. I just wanted
7 to make certain that the basis on which we're making the
8 denial recommendation in regard to the incompleteness, is
9 that the lack of a defined boundary? Is that what
10 constitutes the incompleteness?

11 CHIEF COUNSEL TOBIAS: Yes.

12 CHAIRPERSON PAPARIAN: Okay. I think we're clear
13 on what's before us.

14 Secretary, call the roll.

15 SECRETARY FARRELL: Cannella?

16 COMMITTEE MEMBER CANNELLA: Aye.

17 SECRETARY FARRELL: Jones?

18 COMMITTEE MEMBER JONES: Aye.

19 SECRETARY FARRELL: Medina?

20 COMMITTEE MEMBER MEDINA: Aye.

21 SECRETARY FARRELL: Paparian?

22 CHAIRPERSON PAPARIAN: Aye.

23 Okay. So if the additional information comes
24 forward in the next few days, I think if -- you know, you
25 could let all the Board offices know what you find out,

1 but also then bring it forward at the Board meeting for
2 consideration.

3 MR. de Bie: Just to put a fine point on it.

4 It's not more information. We have the information. It's
5 just verifying what is actually physically out there
6 matches with what has been submitted as the application.
7 So we're not looking for new information or additional
8 information. It's just a confirmation that the boundary
9 as described in the application is actually there and well
10 defined.

11 CHAIRPERSON PAPARIAN: And then an enforcement
12 entity could go out there and determine when they're
13 inside the boundary or outside the boundary.

14 MR. de Bie: That's what were looking for as
15 staff too, yes.

16 CHAIRPERSON PAPARIAN: Okay. Thank you.
17 Anything else on this item?

18 COMMITTEE MEMBER JONES: No. Can I ask a
19 question, Mr. Paparian, of the --

20 CHAIRPERSON PAPARIAN: Go ahead.

21 COMMITTEE MEMBER JONES: And you don't have to
22 get up, LEA.

23 Our finding is going to make your job easier to
24 enforce, correct?

25 Okay. I'm seeing you all nod your heads. I just

1 want to -- I think this a consistent motion. And I
2 congratulate Mr. Cannella, because clearly when we don't
3 delineate the stuff that's there, how in the heck can we
4 expect LEA's or our staff to be able to enforce. And I
5 think that's good policy and I think it's a good action.
6 And I congratulate all the members of this Committee. And
7 that's coming from the industry, so see it on this
8 Committee.

9 CHAIRPERSON PAPARIAN: Thank you.

10 Next item, Item E, relating to the Stonyford
11 Landfill in Colusa County.

12 ACTING DEPUTY DIRECTOR WALKER: Thank you.

13 Item E is consideration of a revised full Solid
14 Waste Facilities Permit (Disposal Facility) for the
15 Stonyford Landfill, Colusa County. And this is Board Item
16 46.

17 And Mary Madison-Johnson will provide the staff
18 presentation.

19 MS. MADISON-JOHNSON: This landfill was owned by
20 Colusa County and operated by Colusa County Public Works.
21 The day-to-day operations are conducted by a contract
22 operator since its initial construction in 1973.

23 The proposed product is to revise the permit to
24 allow the following:

25 Increase the daily tonnage from 1 to 10 tons a

1 day. Set traffic volume at 25 vehicles per day; change
2 estimated closure date from 2021 to 2064; clarify the
3 permitted hours of site operation; establish the landfill
4 height limit. And the total permitted boundary in the
5 proposal footprint will not change.

6 At the time the item was prepared the CEQA
7 document for the project had not yet been circulated
8 through the state clearinghouse. That document has now
9 been circulated and no comments were received.

10 Staff now find the CEQA document adequate and
11 recommend that the Board adopt resolution 2002-642.

12 That's concludes staff's presentation.

13 Are there any questions?

14 CHAIRPERSON PAPARIAN: Let me just ask one for
15 clarification.

16 This is one of the old permits that we're
17 updating?

18 MS. MADISON-JOHNSON: Yes, it is. It's one of
19 the old permits. It's been -- the original permit was
20 issued -- or concurred with in '81 by the Board. So it
21 does update an old permit. And we're happy to see it,
22 because there's been a long history of enforcement action
23 related to this site for taking excess tonnage.

24 CHAIRPERSON PAPARIAN: Okay. Just as kind of a
25 sidelight unrelated to the permit before us, but I think

1 it would be interesting to hear at some point how many of
2 these are still outstanding and what the status of them
3 are. And I'll talk to staff -- if it's okay with the
4 Committee, I'll talk to staff separately and see if we can
5 schedule a short presentation on that at one of our
6 Committee meetings so that we know what's still out there.

7 ACTING DEPUTY DIRECTOR WALKER: We would be happy
8 to do that to give you just -- this is what we refer to as
9 the so-called disco permits, these old permits. We've
10 made a lot of progress, but we'll be able to come back to
11 you and give you a full report on that. And this is one
12 of our last remaining ones to get out. But we'll report
13 fully on the status of reduction of those disco permits to
14 you.

15 CHAIRPERSON PAPARIAN: Okay. Thank you.
16 Any questions?

17 Mr. Cannella.

18 COMMITTEE MEMBER CANNELLA: Yeah. Apparently
19 there's a history that I don't know about and I'll still
20 learn about it. But two glaring questions just
21 immediately appear.

22 If it has 1 ton to 10 tons, but you've not
23 expanded the footprint, how did you find capacity to 10
24 times the amount that you were in going from 2,021 to
25 2,064 -- how did you find more capacity without increasing

1 the footprint and allowing more tonnage but extending the
2 years that the landfill will be operated?

3 ACTING DEPUTY DIRECTOR WALKER: Let me touch on
4 that. I think it stems from the fact that you've got this
5 really old permit which just has very poor, if any,
6 engineering to it. And so somebody just gets a drawing
7 and they come up with a number without much reasoning
8 behind it.

9 This permit now, you have physically in the field
10 delineation of the actual footprint, you have engineering
11 design plans and grading plans, you have analysis of
12 waste-to-cover ratio and things. So you actually come up
13 with something that's technically sound; whereas
14 previously there was no real rhyme or reason in it.

15 COMMITTEE MEMBER CANNELLA: Okay. So you have a
16 more realistically assessed area and these figures are
17 well within reason based on the new investigation of the
18 site, as opposed to what was originally proposed or
19 submitted for it?

20 ACTING DEPUTY DIRECTOR WALKER: Yes.

21 COMMITTEE MEMBER CANNELLA: And the second
22 question is, the CEQA document that you made mention to,
23 was that based on 1 ton or was it based on 10 tons? And
24 there's certainly more air problems with 10 tons than
25 there were 1 ton, so I'm curious about when the

1 environmental document was prepared, when it was
2 submitted, when it was approved, and on what basis was it
3 approved?

4 MR. de Bie: The agenda item indicates that they
5 did a mitigated Neg Dec just recently, looks like within
6 the last couple of years. So it would have accounted for
7 the --

8 COMMITTEE MEMBER CANNELLA: -- the increased --

9 MR. de Bie: -- the increase and not going back
10 in time. And potentially this landfill probably existed
11 pre-CEQA. So when that first permit came up, I'm just
12 speculating, it might have been grandfathered in as an
13 ongoing. So this probably was the first CEQA analysis of
14 the site, existing conditions, and then looking forward --

15 COMMITTEE MEMBER CANNELLA: It was based on the new
16 figures, yeah.

17 Okay. Thank you.

18 CHAIRPERSON PAPARIAN: Mr. Jones.

19 COMMITTEE MEMBER JONES: Mr. Paparian, I'd like
20 to move adoption of Resolution 2002-642, the consideration
21 of a revised full Solid Waste Facility Permit for the
22 Stonyford Landfill in Colusa County.

23 COMMITTEE MEMBER MEDINA: Second.

24 CHAIRPERSON PAPARIAN: Okay. There's a motion by
25 Mr. Jones and a second by Mr. Medina.

1 Secretary, call the roll.

2 SECRETARY FARRELL: Cannella?

3 COMMITTEE MEMBER CANNELLA: Aye.

4 SECRETARY FARRELL: Jones?

5 COMMITTEE MEMBER JONES: Aye.

6 SECRETARY FARRELL: Medina?

7 COMMITTEE MEMBER MEDINA: Aye.

8 SECRETARY FARRELL: Paparian?

9 CHAIRPERSON PAPARIAN: Aye.

10 COMMITTEE MEMBER JONES: Consent, Mr. Paparian?

11 CHAIRPERSON PAPARIAN: Oh, yeah, sure.

12 Put this item on consent.

13 The next item is the Western Regional Sanitary

14 Landfill in Placer County.

15 Do we need a break before this item or --

16 COMMITTEE MEMBER JONES: She's shaking her head

17 yeah.

18 CHAIRPERSON PAPARIAN: Yeah, we need a break.

19 Okay. We'll take a 10-minute break now and come

20 back at 10:40.

21 (Thereupon a short recess was taken.)

22 CHAIRPERSON PAPARIAN: Okay. We'll get started

23 again.

24 Any ex partes?

25 Mr. Jones.

1 COMMITTEE MEMBER JONES: Actually, I said hello
2 to -- God -- Evan Edgar; Sean Edgar; Kelly Aster; Steve
3 South, who gave a pint of blood just to be here today --
4 may have felt like that's what it took. Who else was in
5 that group? I think -- oh, Stan Tkaczyk and Chuck Helget.
6 And I think that's it.

7 CHAIRPERSON PAPARIAN: Mr. Medina.

8 COMMITTEE MEMBER MEDINA: None to report.

9 CHAIRPERSON PAPARIAN: Mr. Cannella.

10 COMMITTEE MEMBER CANNELLA: I do. Sean -- and,
11 I'm sorry, I forget his last name, but I didn't get a card
12 -- from Teamsters.

13 CHAIRPERSON PAPARIAN: Okay. And I have none to
14 report.

15 Okay. We'll go forward with the next item, Item
16 F, related to the Western Regional Landfill in Placer
17 County.

18 ACTING DEPUTY DIRECTOR WALKER: Again, this is
19 Item F, consideration of a revised full Solid Waste
20 Facilities Permit (Disposal Facility) for the Western
21 Regional Sanitary Landfill in Placer County. This is
22 Board Item 47.

23 Christy Karl will give the staff presentation.

24 MS. KARL: Good morning, Members of the
25 Committee.

1 The Western Regional Sanitary Landfill is owned
2 and operated by the Western Placer Waste Management
3 Authority.

4 The proposed permit changes the following:

5 It increases the maximum elevation from 180 feet
6 mean sea level to 295 feet mean sea level;

7 It increases the depth of waste from 82 feet mean
8 sea level to 57 feet mean sea level;

9 It increases the overall design capacity from
10 17,667,700 cubic yards to 36,350,000 cubic yards;

11 It changes the estimated closure date of the
12 facility from the year 2025 to the year 2052.

13 At the time this item was prepared staff was
14 still analyzing the permit for consistency with CEQA.
15 Since then staff has found the permit meets the
16 requirements of CEQA and so recommends Board concur in the
17 issuance of Solid Waste facility permit 31 AA 0210 and
18 adopts Resolution 2002-643.

19 Both the Placer County LEA and representatives
20 from the authority are here if you have any questions.

21 And this concludes staff presentation.

22 CHAIRPERSON PAPARIAN: Okay. Are there any --
23 just to be clear, are there any other speakers in the
24 audience? Because we don't have any speaker slips on this
25 item.

1 Nobody else wants to speak on this item?

2 Okay. Any questions?

3 Mr. Cannella and then Mr. Jones.

4 COMMITTEE MEMBER CANNELLA: I just have
5 information about a lawsuit.

6 And I was just curious what the increase does to
7 the state as it's been issued in the lawsuit? How does
8 that affect it?

9 MS. KARL: You know, I'll have the LEA to come up
10 and address questions on the lawsuit and the status on
11 that lawsuit.

12 MR. ALTMAN: David Altman with the Placer County
13 Environmental Health.

14 The litigation currently is being -- there are
15 some negotiations ongoing related to the litigation. The
16 neighbors were not totally pleased when the environmental
17 document was prepared and publicized. And yet there have
18 been -- although there was a lawsuit related to the
19 Planning Department's approval of this use permit and some
20 litigation regarding the CUP, there's been no injunctions
21 placed on the landfill. And so we see no reason to not
22 proceed at this time.

23 COMMITTEE MEMBER CANNELLA: So there has been no
24 court-ordered stay issued at the landfill?

25 MS. ALTMAN: That's correct.

1 COMMITTEE MEMBER CANNELLA: Okay. Thank you.

2 CHAIRPERSON PAPARIAN: The lawsuit is still
3 outstanding on issues related to the CUP? I mean they're
4 still pursuing?

5 MR. ALTMAN: That is -- it's still active. But
6 at this point in time, it's my understanding that all
7 motions before the Court have been taken off calendar.

8 The operator's also present and may be able to
9 give you better information on the status of the
10 litigation.

11 CHAIRPERSON PAPARIAN: Yeah, why don't we just
12 hear a brief update.

13 MR. DICKINSON: Good morning. My name's Will
14 Dickinson. I'm with the Western Placer Waste Management
15 Authority.

16 Really the best summary of the litigation status
17 is in the staff report. I don't know a whole lot more
18 than what's in that report at this time. We haven't met
19 for closed session in about a month and a half. So I
20 don't really have any additional information to offer.

21 CHAIRPERSON PAPARIAN: Okay. Then just a
22 question, I guess, for our Legal Office.

23 You know, I understand that there's been no stay
24 issued and so forth. But what happens if something
25 that -- if a court were to determine that a new CUP had to

1 be issued, and that CUP formed the basis for our decision
2 today, what would happen to our decision.

3 CHIEF COUNSEL TOBIAS: Well, it depends on, first
4 of all, what the language of the stay would be. I mean a
5 court has the ability to deal with it in a broad way or a
6 narrow way. A lot of times they don't do that. They just
7 say there's a stay in effect.

8 Generally our permit is not based on a CUP. We
9 do look to see what's in the CUP. But our permit
10 authority is separate and apart from theirs. So to the
11 extent that there was some kind of action on a separate
12 permit, I would probably advise the Board to go ahead and
13 act, unless of course there was stay language that
14 prohibited the Board from doing so.

15 CHAIRPERSON PAPARIAN: Okay. Mr. Jones, did you
16 have something?

17 COMMITTEE MEMBER JONES: No, just -- I think that
18 the analysis does show that the three lawsuits that have
19 been filed by Placer Ranch -- that's who's developing
20 Stanford Ranch in that whole area, right? I mean it took
21 them six months to get a half hour change in their
22 night-operating because they were going to put lights out
23 at the landfill. And that -- I think it was six months,
24 wasn't it? That last -- second to the last or last permit
25 that we did.

1 So if there's no other questions --

2 CHAIRPERSON PAPARIAN: Any other questions?

3 COMMITTEE MEMBER JONES: I want to move adoption
4 of Resolution 2002-643 revised, consideration of a revised
5 full Solid Waste Facility Permit for the Western Regional
6 Sanitary Landfill in Placer County.

7 And I see that all the strike-outs are there, so
8 it says that it is consistent with CEQA and it does -- the
9 Board will concur with the permit.

10 COMMITTEE MEMBER MEDINA: Second.

11 CHAIRPERSON PAPARIAN: Okay. There's a motion by
12 Mr. Jones and a second by Mr. Medina.

13 Secretary, call the roll.

14 SECRETARY FARRELL: Cannella?

15 COMMITTEE MEMBER CANNELLA: Aye.

16 SECRETARY FARRELL: Jones?

17 COMMITTEE MEMBER JONES: Aye.

18 SECRETARY FARRELL: Medina?

19 COMMITTEE MEMBER MEDINA: Aye.

20 SECRETARY FARRELL: Paparian?

21 CHAIRPERSON PAPARIAN: Aye.

22 COMMITTEE MEMBER JONES: Mr. Paparian?

23 CHAIRPERSON PAPARIAN: Yes.

24 COMMITTEE MEMBER JONES: Consent?

25 CHAIRPERSON PAPARIAN: Yes.

1 My only hesitation was that if the -- well, they
2 weren't here today --

3 COMMITTEE MEMBER JONES: That's right.

4 CHAIRPERSON PAPARIAN: -- so we'll take it on
5 consent.

6 Next item.

7 ACTING DEPUTY DIRECTOR WALKER: Thank you.

8 Item G is public hearing on the proposed
9 regulations for the waiver of permit terms and conditions
10 during temporary emergencies. This is Board Item 48.

11 And I just want to give you a real brief overview
12 of this type of item. This is a public hearing for
13 rule-making package. It is a formal hearing that's
14 conducted as required by the Office of Administrative Law.
15 This item is not for consideration of comment period
16 changes, et cetera. We would be coming back in December
17 on this item to consider any changes or adoptions.

18 So this is an opportunity for the public to
19 present their comments regarding this reg package. And so
20 with that, I will hand it off to Erica Weber, who will
21 give the staff presentation.

22 MS. WEBER: Good morning.

23 At the Board's August 2001 meeting the Board
24 adopted emergency regulations for waiver of permit terms
25 and conditions during a temporary emergency.

1 The regulations were subsequently filed with the
2 Office of Administrative Law and became effective November
3 1st, 2001. Staff prepared draft-language permanent
4 regulations and held a workshop with stakeholders in
5 December 2001.

6 At the January 2002 Board meeting, the Board
7 approved staff to formally notice proposed permanent
8 regulations and begin the 45-day public review comment
9 period. The comment period ended October 7th, 2002.

10 Current regulations provide temporary waivers and
11 declared emergencies. The proposed regulations establish
12 and defined procedure for facility operators to request
13 approval from the LEA to operate outside the terms and
14 conditions of their Solid Waste Facility Permit in the
15 event of a temporary emergency that is not a declared
16 emergency.

17 Board staff received a written comment from
18 Thomas Carmichael with Western Placer Waste Management
19 Authority on October 18th, 2002, that covered nine points.

20 Five of his comments relate to local emergencies
21 and seemed to be confused with the waivers allowed under
22 declared emergencies.

23 One comment related to the operation having to be
24 in compliance with all land-use entitlements in CEQA and
25 having to be restricted from applying.

1 The second comment related to an operation
2 needing to be in compliance with state minimum standards,
3 which would prevent the issuance of the stipulated
4 agreement to a facility with a long-term gas violation
5 even though the site was in compliance with an order
6 requiring correction.

7 Another comment suggested that the operator's
8 written report be submitted 30 days after termination --
9 I'm sorry -- after termination of the stipulated
10 agreement, instead of the 10 days before, if an extension
11 was not being requested.

12 The lasts two comments relate to the requirement
13 of the LEA presenting an oral report to the Board and how
14 that was unnecessary. And he suggested that the Board not
15 have to concur with the waivers, as that should be left to
16 the LEA's.

17 That concludes staff's presentation.

18 Staff recommends that the Committee open the
19 public hearing to receive any additional comments there
20 might be.

21 CHAIRPERSON PAPARIAN: Okay. So we're here to
22 accept additional comments. I have one comment slip from
23 Chuck White of Waste Management.

24 We also -- members of the Committee I think just
25 got hand-delivered today a letter signed by Allied Waste,

1 California Refuse Removal Council, County Sanitation
2 Districts of Los Angeles, NorCal Waste, Republic Services,
3 Rural Counties Environmental Services Joint Powers
4 Authority, and Waste Management related to this issue.

5 COMMITTEE MEMBER CANNELLA: We didn't receive it.

6 COMMITTEE MEMBER MEDINA: I have not received it.

7 CHAIRPERSON PAPARIAN: Okay. Members are
8 indicating they haven't received it. We received one
9 hand-delivered to my office today. So it's possible it
10 may be back at your desk.

11 Mr. White.

12 MR. WHITE: I do have additional copies of that
13 letter. However, there is some confusion on our part with
14 respect to the proposed regulation and how it deals with
15 this particular issue.

16 My name is Chuck White with Waste Management.

17 The issue has been -- and we've submitted
18 comments to the Board back in January when this was an
19 informal rule-making package, and it had to do with the
20 definition of "stipulated agreement" that is in the
21 proposed regulations. And there is a sentence, the last
22 sentence of that definition, that talks about "is subject
23 to appeal through the appeal's process set out in Division
24 30 Public Resources Code," and the original language was
25 Parts 5 and 6.

1 And we had concerns two-fold:

2 One is that, are these stipulated agreements
3 considered an enforcement agreement, or are they more akin
4 to simply a stipulated agreement which may be subject to
5 subsequent enforcement action that is an enforceable
6 agreement but is not necessarily an enforcement action
7 itself?

8 We had a lot of meetings -- you may recall, Mr.
9 Paparian, Mr. Jones participated in -- which there was
10 some contentious discussion about how this would be viewed
11 as being an enforcement action or a permit action or
12 something in between. And I think the decision was to
13 pretty much keep it neutral.

14 But the larger issue is that if this is subject
15 to appeal under Part 5, then it could be subject to a
16 stay. And that's of some concern, that if you're
17 responding to an emergency situation and needing to get
18 this situation addressed through this emergency action and
19 it's subject to a stay procedure as an enforcement action,
20 then you would be subject to waiting till that stay is
21 resolved before you'd be able to implement the procedures
22 in the stipulated agreement.

23 I don't think anybody in our coalition that you
24 mentioned objects to the fact that this should be subject
25 to an appeal, certainly. We just question whether or not,

1 number 1, is it an enforcement action and is it subject to
2 a stay procedure. And we would -- however, the proposed
3 regulations you have before you did make a change and no
4 longer refers to Parts 5 and 6. It refers to Parts 4 and
5 6, which we think as it is currently before you it
6 actually solves the problem, because Part 5 as being the
7 enforcement part and Part 4 being the permit part, and we
8 believe then these regulations -- if we're reading this
9 correctly with the change that is before you today in that
10 one sentence -- then I think we're okay with the
11 Regulation and would urge you to go ahead and adopt if
12 you're basically referring only to parts 4 and 6 as being
13 the parts which would trigger the appeal procedures under
14 this stipulated agreement.

15 So I guess why I'm up here before you today is
16 asking for some clarification on how this would in fact
17 work. I really wanted to hold that letter in abeyance
18 until -- if we're currently reading these parts 4 and 6
19 correctly, which we hope we are.

20 So I guess the bottom line is if 4 and 6 are as
21 we read it, we're not submitting a letter and we urge you
22 to go ahead and adopt the regulations as they are before
23 you. However, if there's some question about this, then
24 we would want to have a continuing dialogue with the Board
25 and urge you not to subject these stipulated agreements to

1 an appeal procedure that is also linked to a possible
2 stay.

3 Thank you.

4 CHAIRPERSON PAPARIAN: Okay. Why don't you stick
5 around for a second.

6 Chuck, why don't you stick around for a second.

7 MR. WHITE: I'll be right here.

8 CHAIRPERSON PAPARIAN: Does staff want to, or
9 legal counsel, I don't know which one, want to address
10 that question that he brought to us?

11 Go ahead.

12 ACTING DEPUTY DIRECTOR WALKER: Well, from
13 staff's standpoint again -- I'll hand off to Kathryn to
14 add to it -- we need to digest this as part of our
15 synthesis of the comments when we come back next month for
16 either adoption or consideration of some changes. So
17 without that I -- you know, anymore I -- if Kathryn wants
18 to add -- I can't really speak of anything.

19 CHIEF COUNSEL TOBIAS: Actually, this issue's
20 been discussed and we actually address it in the eyesore
21 as part of the rule-making package. So I'm kind of
22 surprised that it's being brought up again. But maybe
23 there is some kind of misunderstanding.

24 First of all, let me say that the whole AB 59
25 process, which is the enforcement order and appeal and a

1 stay, is all part of one process. It can't be basically
2 taken apart and said that you can have an appeal without
3 the stay. Maybe in different sections, but it's all part
4 of an appeal process. So that's really just for
5 clarification sake.

6 Secondly, and I think probably more importantly,
7 to answer Mr. White's concerns here is that basically the
8 finding that these agreements or stipulated agreements are
9 enforcement orders is basically the heart of how we've
10 justified the authority to have this waiver. As you may
11 know, a waiver is an extremely, I think -- what's the word
12 I want? -- this is a big -- I don't want to say a jump,
13 but it's something very serious. When you say that you've
14 got a permit condition that goes through a public process
15 of adoption, and then there's the ability to waive that
16 permit condition, that's something that's large in the
17 whole scheme of things. The way we've justified that is
18 in Section 45011a, which is where it basically says that
19 we can't take those kinds of orders.

20 So without this being an enforcement order,
21 there's really no basis in the law for a waiver.

22 So although I understand Mr. White's concerns,
23 these concerns were raised at the beginning of the
24 process. And without that finding that it's an
25 enforcement order, really the Board has no authority to go

1 into a waiver situation. So this has been laid out before
2 the Board when we first started the process.

3 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

4 COMMITTEE MEMBER JONES: I think it was laid out
5 in front of the Board. But I think both you and I were in
6 agreement that these were -- these are very specific -- I
7 mean we're looking at permits that are not easily changed.
8 I mean they take forever. And conditions change. And
9 there's a lot of facilities that they are the only solid
10 waste handling facility in a huge waste ship. That was
11 part of the arguments that were made. And I know that
12 through a series of negotiations we talked about a
13 stipulated agreement, understanding that it's a subset of
14 a notice and order -- or I mean a stipulated order.

15 And I think what the concern is -- and I don't
16 want to misspeak because Mr. Paparian and I work pretty
17 hard on this, but I think we had agreed that they needed
18 to be stipulated agreements as kind of -- I maybe using
19 the wrong English, but kind of like a subset of this, so
20 that it would get a jurisdiction through, because there's
21 so much conditions that have to be met. This isn't like
22 somebody just deciding to abandon conditions. It is
23 because something has happened, unforeseen, that needs to
24 be taken care of. And the LEA has the authority to do
25 that right now without our concurrence, to state an

1 emergency and do stuff.

2 So I think the question's fair by the industry.

3 I always get nervous every time we talk about this issue
4 because it seems like you and I end up in meetings that we
5 think we have concurrence, and then we leave and it
6 doesn't always seem exactly the same. And I think that's
7 just the English language and my inability to sometimes
8 understand it.

9 But if a facility was granted a stipulated
10 agreement, number 1, it's voluntary, they go ahead of the
11 game when they see something coming down the road. So
12 it's to actually put a set of conditions in place that --
13 you know, it's not like we're waiving conditions. There
14 are actually conditions that are put on as part of the
15 waiver, right? I mean it's part of the waiver. It's not
16 blanket that you don't have to do these things, it's that
17 "Here's what you have to do and here's how you're going to
18 manage it."

19 That's clearly what this does, so it gives the
20 Board the ability to react immediately to a problem, as
21 opposed to an LEA, I mean waiting or doing whatever or
22 material not coming in.

23 So if Mr. White's concern is that anybody could
24 get a stay -- and what that means is -- let's say that
25 there is an emergency and you have to start accepting and

1 they come and they go through all these things to start
2 taking care of that. Are you saying that a competitor can
3 come in and file something to stop that from happening so
4 that it gets directed somewhere else without the
5 ability -- I mean we could be talking about transporting
6 waste hundreds of miles based on how we interpret this.
7 It's not all downtown, you know, Bay Area or downtown
8 L.A., because this is going to be for facilities all over
9 the state. And there's -- you know, I think the issue of
10 competition has always been an issue. I mean wasn't that
11 one of the things that we talked about, Mr. Paparian, that
12 we didn't -- you know, because this sets another set of
13 conditions, that we had to be careful that it didn't get
14 abused?

15 CHIEF COUNSEL TOBIAS: If there is a violation,
16 if there is an order issued, the order is stayed unless
17 the LEA finds that there's a substantial threat to the
18 environment. So can basically overturn that stay. But
19 that's how they would have to -- that's what the process
20 would be, is that there would be a challenge to it, the
21 order would be stayed, and then the LEA would have to
22 basically say that they could continue to operate in the
23 face of that if there's an imminent threat. They'd have
24 to make that finding.

25 COMMITTEE MEMBER JONES: So if I'm operating a

1 facility, something comes up where I have to react to it,
2 I go to the Board ahead of time and the LEA, we work out a
3 stipulated agreement so we can take care of a waste stream
4 that nobody had even thought existed; my competitor 30
5 miles away does what, files an AB 59 and says he wants to
6 put a stay or she wants to put a stay on my operation or
7 on that agreement? Then what response do I have?

8 CHIEF COUNSEL TOBIAS: Then what?

9 COMMITTEE MEMBER JONES: What are my options?

10 CHIEF COUNSEL TOBIAS: To go into the LEA and to
11 basically ask them to go ahead and let you operate if
12 there is an imminent threat. I think -- you know, there
13 also has to be cause to basically go in and challenge it
14 in the first place. So, you know, a basis of competition,
15 on somebody challenging it because they'd like the waste
16 to come in there direction or whatever, would not stand.

17 Would there be several days of back and forth in
18 that? Possibly.

19 COMMITTEE MEMBER JONES: So if a competitor filed
20 AB 59 and there was a stay, and the LEA is trying to work
21 through it, then that stay goes away while they're working
22 through it? Or what?

23 CHIEF COUNSEL TOBIAS: No. They would come in
24 and they're going to basically -- if somebody files and
25 says that there is some kind of violation, that at that

1 point you're going to go back, if it's you, and the LEA is
2 going to say, "Well, this order is stayed. You're not
3 going to be able to waive these conditions." You're going
4 to come back in and you're going to say, "No, there's an
5 imminent threat of a problem here, and you need to
6 basically release the stay so that I can operate pending
7 this AB 59 appeal."

8 So, you know, as I say, it could possibly take a
9 day or two to work that out, it could all be done in one
10 day if everybody's working on it and everybody can talk on
11 the phone or whatever.

12 COMMITTEE MEMBER JONES: So the trigger would
13 never be a violation because this stipulated agreement is
14 proactive, it's proactive to the point that you get the
15 stipulated agreement before there's a problem?

16 CHIEF COUNSEL TOBIAS: Well, it's just an order.
17 I mean, yes, I suppose you could call it proactive in the
18 sense that it is done ahead of time and that's what we're
19 basing this on, is that the parties are anticipating it --

20 COMMITTEE MEMBER JONES: -- prior to a violation.

21 CHIEF COUNSEL TOBIAS: -- prior to a violation.
22 So, you know, it's somewhat -- although I think it's
23 possible that the scenario that you've laid out could
24 happen, I think it's unlikely because of the way that it's
25 set up. It is done ahead of time, the violation hasn't

1 occurred, and the order that would be appealed is one
2 that's allowing you to do something.

3 So --

4 COMMITTEE MEMBER JONES: So the basis for the
5 appeal would have to be a violation, right? Or could it
6 be anything?

7 CHIEF COUNSEL TOBIAS: Well, they'd be trying to
8 invalidate that order.

9 COMMITTEE MEMBER JONES: I understand what
10 they're trying to do. I'm just -- I think what Mr. White
11 has brought up is pretty valid because this is about
12 competition; this isn't about, you know, anything else.
13 The LEA wouldn't enter into an agreement like this unless
14 they saw a waste stream coming that they hadn't counted
15 on.

16 Okay. Thanks.

17 CHAIRPERSON PAPARIAN: Yeah, and I think also
18 from the other end of things, I think part of this is to
19 assure that if this agreement goes forward, it's not an
20 attempt to circumvent the normal permitting process.

21 COMMITTEE MEMBER JONES: Right, right.

22 CHAIRPERSON PAPARIAN: So any other questions on
23 this?

24 I think it was -- it's a pretty delicate balance
25 in this thing. I know that a lot of my environmental

1 friends are not at all happy that we're moving forward
2 with something like this as opposed to just having a
3 situation where this would not be allowed at all and you'd
4 have to go through the full permitting process.

5 So speaking for myself, I'm comfortable with
6 proceeding with the explanations that have been given but
7 proceeding as the proposal has been outlined.

8 Mr. Jones, you're nodding your head.

9 Yeah, Mr. Jones and everybody seems to be in
10 agreement with that.

11 Mr. Cannella.

12 COMMITTEE MEMBER CANNELLA: Just a comment, Mr.
13 White.

14 I want to know how you feel about it. You said
15 we wouldn't get the letter unless you thought we weren't
16 going the way that you supported. I got the letter. So
17 how do you feel about it?

18 MR. WHITE: Well, if people were asking for the
19 letter, I'd simply provide it as a matter of courtesy. So
20 I mean there is this concern of whether or not this would
21 be subject to a stay if in fact it's meant to respond to
22 emerging situation and the only way you could get around
23 that stay would be to document it's no longer -- it's more
24 than emergency. It's an imminent and substantial
25 endangerment. And is there, you know, a situation where

1 you'd be in a period of time unable to respond to this
2 emerging situation pending the outcome of this imminent
3 and substantial endangerment? And I think there's a --
4 there surely is a way we can craft these regulations to
5 allow, you know, an appeal process to proceed on a
6 stipulated agreement. But, you know, not subject to a
7 stay when you're responding to an emergency situation. I
8 would just urge that if we do go forward, that that issue
9 be clarified as much as possible.

10 CHAIRPERSON PAPARIAN: Okay. Thank you.

11 We're ready for the next item, tire monofill
12 regs.

13 ACTING DEPUTY DIRECTOR WALKER: Thank you.

14 Item H is public hearing on the proposed waste
15 tire monofill regulations. It's Board Item 49, this
16 Committee only item. Again, it's a public hearing for
17 rule making.

18 One thing though, that since this is complicated,
19 this reg package, it's been out there for a long time,
20 I've asked staff to give you a little more background on
21 it. Hopefully that'll give a little good context.

22 And with that, Keith Kennedy will provide the
23 staff presentation.

24 MR. KENNEDY: Good morning Committee Members.

25 After the closure of the Modesto Energy Limited

1 Partnership in Stanislaus County, which at the time
2 consumed 6 million waste tires per year, concerns were
3 raised about a possible increase in tire disposal at
4 landfills as well as the possibility of monofilling waste
5 tires. Board staff, members of the public and industry
6 representatives have worked together for several years in
7 workshops and through meetings to bring forward this
8 regulatory package, which addresses regulatory oversight
9 of waste tire monofill sites by the CIWMB and local
10 enforcement agencies.

11 At the June 2000 Board meeting the Board directed
12 staff to develop the tire monofill regulations as part of
13 the solid waste facility permitting design and operational
14 standards since these regulations govern the disposal of
15 waste tires, which are considered solid waste.

16 Also at the same meeting the Board agreed with
17 the approach developed through workshops that the
18 regulations will be developed in two phases.

19 Phase 1 is what we are hearing today, the
20 permitting, design, and operational standards for waste
21 tire monofills.

22 Phase 2 will address the codisposal issues of
23 altered waste tires at landfills and will commence after
24 the adoption of these waste tire monofill regulatory
25 requirements.

1 The Board approved this version of the
2 regulations for the 45-day public comment period at the
3 May 2001 meeting. After resolving several issues with the
4 economic impact statement for these regulations, the
5 Office of Administrative Law publicly noticed the proposed
6 regulations on September 6th, 2002, initiating the public
7 comment period.

8 The comment period closed on October 21st, 2002.
9 Today's meeting will serve as the public hearing as
10 required by OAL and is an extension of the 45-day comment
11 period.

12 These regulations are intended as standards for
13 any waste tire monofill within the State of California.

14 Briefly, the proposed regulations placed the
15 following requirements on waste tire monofills: All waste
16 tire monofills must obtain a full solid waste facilities
17 permit or waste tire monofills must comply with the
18 operating criteria for full solid waste landfills in
19 addition to more stringent cover requirements.

20 All tire monofills will be required to comply
21 with additional technical standards, some of which include
22 the maximum permitted size of tire shreds and metal
23 fragments, requirements for temperature sensors, limits on
24 cell size requirements for daily cover, and the sampling
25 of waste tires to assure that they are meeting

1 specifications.

2 Each operator must submit a plan in the form of a
3 report of disposal site information, or DSI, which must
4 include, in addition to the operational plan, how the
5 operator intends to prevent the possibility of a fire at a
6 facility and how a fire will be controlled should one
7 occur. The plan needs to also address evidence that the
8 tire monofill has met all the local fire prevention and
9 control requirements.

10 All waste tire monofills must comply with the
11 closure and post-closure maintenance criteria and
12 demonstrate financial assurances. The regulations require
13 that any excavation of waste tires be in accordance with
14 the CIWMB and the LEA.

15 And, finally, the regulations also allow the
16 CIWMB to continue to make the determination regarding
17 beneficial reuse of waste tires.

18 Board staff have received numerous comments from
19 residences surrounding California asbestos monofill -- CAM
20 for short.

21 The CAM facility is a proposed waste tire
22 monofill near Copperopolis in Calaveras County. The
23 comments addressing the proposed waste tire monofill
24 regulations include concerns with water contamination via
25 seepage, fire prevention and control, and concerns with

1 lightning and pressure-induced combustion.

2 To address these concerns staff met with the
3 State Water Resources Control Board staff to specify
4 containment and collection requirements that will limit
5 the flow of air and water infiltration as well as
6 containment of liquids resulting from a fire.

7 Staff also added land language to the ODSI
8 requirements that addresses how the operator intends to
9 prevent fires from igniting, how they intend to control
10 and suppress a fire if it occurs, and how to they intend
11 mitigate the environmental impacts.

12 In addition to the concerns that were raised with
13 the regulations, the residents surrounding the CAM
14 facility also raised site-specific concerns which included
15 asbestos tailings being used as cover, an inadequate
16 highway to the CAM facility, truck traffic and pollution,
17 a small fire department in Copperopolis, and the potential
18 impact on property values should the CAM facility be
19 permitted.

20 These regulations do not address siting and other
21 approvals at the local level. The CAM facility will still
22 need to go through the formal permitting process before
23 this Board.

24 This process includes compliance with the
25 California Environmental Quality Act. The CEQA and permit

1 process is designed to address many of the residents'
2 site-specific concerns, including truck traffic,
3 additional air pollution and the inadequacy of the road to
4 the facility.

5 Today, if the CAM facility did apply for a full
6 permit, the local enforcement agency would need to process
7 the application as a municipal solid waste landfill
8 application. Municipal solid waste landfill permit
9 requirements as well as state minimum standards for
10 operation and design do not adequately address issues
11 specific to waste tire monofills.

12 In addition staff have received several comment
13 letters from industry. There was a concern with some of
14 the technical standards outlined in the regulations; the
15 age of the Geosyntech report, which these regulations use
16 as a basis; the adequacy of the economic impact analysis
17 that was completed by the agency-wide economic analysis
18 unit; and a call for additional flexibility to be added to
19 some of the standards.

20 After this public hearing staff will continue to
21 consult with Dr. Dana Humphrey, a nationally known expert
22 on waste tire monofills who is under contract with the
23 Board, to discuss all the comments to determine how to
24 address the need for changes to the regulations.

25 These discussions will also allow staff access to

1 any recent studies and analysis in determining the needed
2 changes.

3 Other comments staff received indicated that the
4 net effect of the proposed regulations would be to
5 discourage the management of waste tires in waste tire
6 monofills since the regulations would require more
7 stringent and potentially costly standards and since the
8 regulations do not address the disposal of waste tires at
9 municipal solid waste landfills.

10 Industry would like to have the issue of the
11 codisposal of altered waste tires with MSW addressed prior
12 to the final implementation of these regulations.

13 However, per Board direction, Phase 1 of these
14 regulations will be completed prior to Phase 2, the
15 codisposal of altered waste tires at municipal solid waste
16 landfills.

17 Staff is expecting several residents from
18 Copperopolis area to address the Committee today.
19 Unfortunately, Mr. Bob Miller, who was addressed the Board
20 several times on behalf of the residents of Copperopolis,
21 could not be here due to a conflict with another meeting
22 regard the CAM facility.

23 Staff believed that representatives from Waste
24 Management, Inc., who has an interest in the Asuza
25 Landfill, which disposes of waste tires, and the proposed

1 CAM facility as well as representatives from Tire Disposal
2 Service and Greenman Technologies, will address the
3 Committee today.

4 Following this public hearing staff will complete
5 the review of the comments and revise the proposed
6 regulations as needed.

7 Staff also intends to conduct another meeting in
8 Copperopolis, continue to work with Dr. Humphrey, and come
9 back to the Board after compiling the additional comments
10 and feedback with the revised language that will be added
11 to the regulations prior to the 15-day comment period.

12 Staff intends to return to the Board at the
13 January 2003 meeting for consideration of the changes to
14 the regulations.

15 In areas of discussions regarding these
16 regulations at a previously Board meeting there was some
17 interest in having the State Fire Marshal and Dr. Humphrey
18 involved in a Board meeting or workshops. Staff will work
19 with the Committee Chair's office to explore these
20 options.

21 And that concludes staff's presentation.

22 CHAIRPERSON PAPARIAN: Just to clarify on your
23 last point. I think it came up at one of our prior
24 meetings, trying to work with the State Fire Marshal to
25 assure that they will provide adequate training to the

1 local fire district in the Copperopolis area.

2 Is that being worked on too?

3 MR. de Bie: It's our intent to fine-tune that
4 and provide the Board an update on that effort. And our
5 hopes was to have a representatives from the State Fire
6 Marshal's to come and indicate directly to the Board what
7 their plans are relative to that.

8 So we don't have anything concrete to report
9 today.

10 CHAIRPERSON PAPARIAN: Not concrete, but we're
11 working on trying to get them together to assure that they
12 have whatever training they might need?

13 MR. de Bie: Yes, that's our intent.

14 CHAIRPERSON PAPARIAN: Okay, I have one speaker
15 slip first of all are there any questions from the
16 members?

17 I have one speaker slip from Rick Janseen of
18 Greenman Technology.

19 Come on up.

20 I don't have a speaker slip from Waste
21 Management. Does Waste Management wish to -- the staff
22 indicated they might be interested --

23 MR. WHITE: We've submitted comments in writing,
24 extensive. If you have any questions, we'll certainly
25 respond to them. We look forward to working with the

1 staff, been very helpful, and going forward and getting
2 these regulations finalized.

3 CHAIRPERSON PAPARIAN: Okay. Thank you.

4 Mr. Janseen.

5 MR. JANSEEN: Rick Janseen with Greenman
6 Technologies.

7 Dear Members of the Board, Greenman Technologies
8 of California, Inc., appreciates the opportunity to
9 provide comments to the Board regarding a draft waste tire
10 monofill regulatory requirements.

11 CHAIRPERSON PAPARIAN: Mr. Janseen, we're having
12 a little trouble hearing you. I think your microphone is
13 on. Maybe it just needs to be closer to you.

14 Is the green light on?

15 MR. JANSEEN: Yes, it is.

16 Is that better?

17 CHAIRPERSON PAPARIAN: Yeah.

18 MR. JANSEEN: Okay. Greenman Technologies has
19 operated in the tire collection processing and recycling
20 and marketing industry for the past 10 years, now managing
21 approximately 30 million tires nationwide. We currently
22 operate a tire recycling and shredding operation in
23 southern California adjacent to the Asuza tire monofill.

24 Greenman has reviewed the text of the proposed
25 regulatory requirements, the initial statement of reasons,

1 the notice of rule making, and the report technical
2 considerations in scrap tire monofills prepared by
3 Geosyntech consultants.

4 Based upon our review of these documents we
5 believe that the regulations as proposed underestimate the
6 incremental costs impacts of implementing the regulations
7 and, in fact, do not present an adequate cost benefit
8 analysis.

9 The reference to a maximum additional cost of
10 approximately 2 cents per tire to consumers or small
11 businesses resulting from implementation of these
12 regulations is significantly less than our own estimate of
13 the cost impacting relating solely to processing tires to
14 the specifications for size and type of waste tires
15 disposed. This does not include the proposed additional
16 costs associated with other aspects of the regulatory
17 requirements.

18 A further concern is that it appears that many,
19 if not most, of the operating standards set forth in the
20 regulations are drawn from the 1997 Geosyntech report
21 prepared nearly four and a half years ago. In the report
22 Geosyntech notes that the professional opinions and
23 recommendations expressed in this report are based on the
24 limited knowledge of shredded tire monofills.

25 Much of the science upon which Geosyntech bases

1 its recommendations is ambiguous and acknowledged as such
2 by Geosyntech.

3 Greenman's concerns regarding the proposed
4 operating standards are whether the proposed operating
5 standards will in fact provide the assumed benefits
6 primarily or reduction in the potentials for fire's in
7 tire monofills.

8 And Greenman wonders if these operating standards
9 have been implemented outside of California and if they
10 have significantly reduced the risk of fires.

11 Greenman's core business is the recycling of
12 waste tires. However, the safe and economic disposal of
13 waste tire scrap from our production process is also an
14 important element of our business both here in California
15 and in numerous operations throughout the United States.
16 We are concerned that these regulatory requirements as
17 proposed may significantly increase the cost of
18 monofilling waste tires and waste tire production scrap in
19 southern California. Ultimately these costs will be
20 passed through to the consumers and businesses.

21 Although Greenman believes that the market works
22 best when it accurately reflects all costs, including
23 environmental costs, we believe that these regulatory
24 requirements may be unduly burdensome to existing tire
25 monofill operators without enhancing environmental

1 protection. A potential result of implementing the
2 regulatory requirements as proposed is a greater amount of
3 illegal dumping, increased disposal of scrap tires in
4 municipal solid waste facilities, and increased costs for
5 tire recyclers and disposers alike.

6 We would encourage the California Integrated
7 Waste Management Board to examine closely the cost and
8 benefits of each of the proposed minimum standards with to
9 design, construction, operations, closure and post-closure
10 of both existing and waste tire monofills.

11 We would also encourage the California Integrated
12 Waste Management Board to research developments and
13 operating practices at waste tire monofills since the time
14 Geosyntech report was prepared to make sure that there is
15 a greater certainty with respect to the cost and benefits
16 associated with the proposed waste tire monofill
17 regulatory requirements.

18 Thank you for the opportunity to input into this
19 process.

20 Sincerely, Jim Dotinghoff, Vice President,
21 Greenman Technologies.

22 CHAIRPERSON PAPARIAN: Thank you.

23 Any questions?

24 Comments from Board members?

25 Mr. Jones.

1 COMMITTEE MEMBER JONES: I'll make this real
2 quick.

3 Under our definitions, we show waste tire
4 monofill means a discrete unit as defined in Title 27
5 Section 20164. And it says for disposal of only
6 uncontaminated waste tires together with cover.

7 When it says -- when the reference is "as defined
8 in Title 27," there is no definition of a monofill.
9 There's no definition of a waste tire monofill. There is
10 only a definition of what could be considered a discrete
11 unit. So what you're saying is, as -- you're defining
12 what "discrete unit" means. And that's anything that can
13 be described. It's actually any portion of the disposal
14 area that can be individually described.

15 Is that what you're referencing there?

16 MR. de Bie: That's how the definition should be
17 read, is that any area that, in essence, paraphrased, that
18 can be described that is receiving only tires and cover
19 can be considered a tire monofill.

20 COMMITTEE MEMBER JONES: Okay. So I think
21 there's a couple of issues here. You know, I got visited
22 during the week last week. I was pretty active in these
23 when they first came forward because we wanted to make
24 sure that we had the proper thing for CAM, the proper
25 amount of protection.

1 But I have 2 questions, I guess. Number 1, Asuza
2 is not a tire monofill as much as it is a solid waste
3 facility that that takes in C&D, inerts, and tires.
4 Clearly not mono, you know. Clearly other waste streams.

5 So just based on your definition kind of tells me
6 and as always kind of told me that Asuza's probably going
7 to get treated differently than CAM.

8 Is that -- I mean how do we make a leap that --
9 or do we make a leap that Asuza -- part of the report was
10 that it would impact Asuza, part of the public testimony
11 was that it would.

12 But Asuza takes a lot of other material,
13 inert-type material, other than just the tires. So are we
14 looking at that -- under your definitions we've got to be
15 looking at that differently than a tire monofill.

16 MR. de Bie: Yes. And Waste Management brought
17 that to our attention in their comment letter that they
18 wanted to have us look again at that aspect. And maybe --
19 and it's something that we'll need to discuss with them
20 on, you know, more of the detail. But potentially there
21 could be changes that are discussed that could bring Asuza
22 into more aligned with this definition. But certainly a
23 straightforward definition as it exists, reading of this
24 definition would indicate that Asuza isn't a monofill.

25 COMMITTEE MEMBER JONES: Okay. And that's one

1 issue, because that was my response when I met with them,
2 that I didn't even think Asuza was a tire monofill.

3 My other issue would be -- and it was an issue
4 that got brought up -- if we're looking at municipal solid
5 waste landfills that take a whole host of material, not
6 just C&D or inerts, but takes what is considered MSW, I
7 mean all the MSW, one of the issues that got brought up is
8 it may be valuable to start thinking about how big
9 does that -- how much shredded tires in one concentrated
10 area in a regular MSW landfill is appropriate. I mean we
11 don't have any history, that I know of, of tire fires at
12 landfills, you know. But I've never seen a huge
13 concentration and I've never really torn one apart to know
14 that it was a tire or that it wasn't something else that
15 started that landfill fire.

16 But normally you may get a truckload, you know,
17 couple of truck loads in and they get dispersed over a
18 working phase. It's different than a 30-foot deep pile by
19 30 that could be generating heat inside and go right to
20 the heart of your monofill regs because there's not stuff
21 mixed in with it. So that may be something for Step 2,
22 you know, that we need to talk about because, you know,
23 clearly we've learned an awful lot about heat generation
24 and tire over the last 7 years.

25 But I think those are the two issues that, you

1 know, I worry about. I feel comfortable with these regs
2 as it relates to CAM. I think that it makes sense to me.
3 But I don't, you know -- I want to make sure that we're
4 looking at these other, you know, two issues.

5 MR. de Bie: Certainly we are. As Keith
6 indicated in his presentation, when Board gave direction
7 to start with monofill regs, they also indicated the need
8 to look at codisposal of tires and whether there is an
9 issue with certain ratios and that sort of thing.

10 And the way we've taken that direction is we will
11 run through the monofill regs and then pick up that Phase
12 2 aspect and look at that. There have been some
13 comments -- written comments received that maybe the
14 phasing needs to be adjusted and codisposal looked at
15 first and then monofilling.

16 So we'll need to look at that and respond to that
17 because, you know, it was received during the comment
18 period. But it's been staff's intent to follow-up on the
19 Board's direction to look at that ratio issue.

20 COMMITTEE MEMBER JONES: Okay.

21 CHAIRPERSON PAPARIAN: As a practical matter, if
22 you look at the Asuza facility versus a monofill
23 elsewhere, in terms of protection of -- you know,
24 environmental protection, is there a difference in the
25 Asuza facility? I mean because they're codisposing, is it

1 less likely to have a problem as opposed to a monofill
2 that's just taking tires.

3 MR. de Bie: I don't think staff's in a position
4 where we can offer a definitive opinion at this time. We
5 would need to again talk with Mr. Humphreys about, you
6 know, the affect of various types of materials being
7 codisposed with tires. I know initially we talked about
8 just some waste types, you know, concrete and brick and
9 that sort of thing. And depending on, you know, the
10 chemical nature of the material, there may be issues.
11 Certainly the thought of mixing asphalt in with tires was
12 not thought to be a good idea. And that is sometimes
13 considered inert and included in inert disposal.

14 So certainly during the next few weeks, if not
15 months, we'll be looking at that issue. And that kind of
16 harkens back to, you know, are we defining tire monofills
17 too narrowly? Should we maybe open it up and add in other
18 materials that could be allowed to be codisposed in a tire
19 monofill? I think the intent of that other material would
20 be such that it would again limit the possibility of a
21 fire. And that's one reason why the restriction on
22 materials mixed in in monofilling has been included, is
23 just to reduce the possibility of fire. There has been
24 some debate about the organic nature of even the cover
25 material, the soil, and if there should be -- what the

1 maximum amount of organic material should be in the soil.
2 And so that needs to be looked at again in terms of new
3 information being presented by stakeholders and others.

4 So I think it's something -- it's an issue that
5 can be discussed. And determining on which direction it
6 goes, potentially an operation like Asuza could be
7 redefined in a new version of the regs to say it is a fire
8 monofill or it could go the other way too. So it's an
9 open topic we're still looking at.

10 CHAIRPERSON PAPARIAN: Okay. Any other
11 questions, comments?

12 Okay. I guess the direction is to proceed.

13 Okay. Next item is item I, the compost regs.

14 ACTING DEPUTY DIRECTOR WALKER: Thank you.

15 We've got a little changing of the guard here.

16 This item again Item I, and it's consideration of
17 the adoption of Negative Declaration (State Clearinghouse
18 No. 2002092005) and proposed regulations for the
19 compostable materials handling operations and facilities
20 requirements.

21 Just a couple of introductory comments. We've
22 had two 15-day comment period changes out. And this is
23 concluding the second comment period changes. We feel
24 it's extremely important for the Committee and the Board
25 to adopt this regulation package. We feel we've made

1 substantial effort. It's been quite -- probably it -- as
2 far as regulation packages, we've had nearly a thousand
3 comments, incredible amount of work with the different
4 stakeholders. And this is basically the reasonable best
5 version of this regulation package that we feel is
6 appropriate. And that also we are, with the adoption here
7 this month, in a position to meet our mandate under SB 88
8 to get compost regulations in place or the jurisdiction
9 over odors at compost facilities will revert to the local
10 air districts.

11 So with that -- oh, I'd like to also point out
12 that we recognize that we can't address all the issues out
13 there regarding organics and composting. And that's why
14 we have a Phase 2 effort, which will address a number of
15 the ongoing issues of concern out there with regard to
16 organic materials and also some of the comments brought up
17 with regard to the need for additional flexibility and
18 exclusion levels, et cetera, that we're certainly willing
19 to combine in that effort as the Committee directs us.

20 So with that I'd like to hand it off to Jeff
21 Watson, who will give the staff presentation.

22 (Thereupon an overhead presentation was
23 presented as follows.)

24 MR. WATSON: Basically this set of regs that
25 we're bringing forward today had three small changes that

1 were considered nonsubstantial in their regulatory effect.
2 And the list is on the viewing screen.

3 Otherwise the regs are exactly the same regs that
4 we've put forward before. And these are -- like I say,
5 we've spoke with Legal, and these apparently are not
6 requiring a 15-day announcement.

7 During the last 15-day -- the second 15-day
8 period we received upwards to 30 comments, most of which
9 pertain to the small quantity exemptions that we were
10 talking about at the previous month. And that's where
11 we're at right now. We're contacting, as we were directed
12 last month, to do the Alameda sources. And we've spoken
13 with the zoo, and we'll continue to try to get in touch
14 with the other generators.

15 But apparently there was some confusion as to the
16 changes coming from the previous set of regs and this set
17 and the whole EA notification requirements. And that was
18 basically what the zoo -- when we talked to the zoo, there
19 was at least a perceived on our part, and we'll continue
20 to make sure that this is true and not just what we want
21 to hear, but that there was an adjustment of an attitude
22 that the current regs that we're proposing would not be as
23 obstructionist to the zoo. In fact if we did make the
24 change for the zoo, for instance, on this small quantity
25 generation, their capacity is over the thousand cubic

1 yards. They run six 200-cubic-yard units, and that would
2 be 1200 cubic yard capacity that they run at. And so they
3 would exceed the thousand cubic yards that was requested
4 at any rate. So there would be problems on the judgment
5 of thresholds.

6 Also if we made that change, we've talked to a
7 few LEA's that contain composting facilities in their
8 jurisdictions, and they would not agree to that thousand
9 cubic yard at this point the way it was described. So we
10 don't have consensus to make any changes beyond what we're
11 talking about now and retain a timing. And that's key to
12 this particular package.

13 We have added a substantial number of items to
14 our Phase 2 to look at what small quantity generation is
15 necessary for the State of California. And it appears to
16 be changing quite quickly, and mostly around food waste is
17 what it appears to be the major growing or emerging issue.

18 I don't believe, unless there's some clarifying
19 discussions, that we need to go much farther on this.

20 Timing-wise it is staff's understanding that we
21 will be able to make -- if we go forward right now we'll
22 be able to make the SB 88 deadline. I don't know what --
23 it's a long process that we have to pull together. And we
24 have lots of comments that we have to compile for our F
25 SOR. And so we're thinking that this is -- this is pretty

1 much it for our Phase 1.

2 And I think that's what I would want to know if I
3 were a Board member.

4 Are there any questions for staff?

5 CHAIRPERSON PAPARIAN: Just on that point,
6 because I think -- we have at least one speaker who I
7 think is going to request changes be made.

8 You're suggesting that given the deadlines under
9 the -- whatever, the Administrative Procedures Act, that
10 we don't have the time to go out and change if we wanted
11 to change; we'd have to start the clock again?

12 MR. WATSON: In a word, yes. There are not hard
13 deadlines like there are for permits, 55 day, you know,
14 120 days. But there are compilations that have to occur
15 of information and. Adding another chunk of those pieces
16 of information, staff looked at it this last week, and we
17 do not believe that we would be in a position to make --
18 at this point to make any additional changes, basically
19 because we're not sure we could get agreement in any
20 changes. So it would be -- if we did go out for a 15-day,
21 we're not certain that that 15-day would yield a consensus
22 package, if you understand what I'm saying. So we would
23 be in another possible 15-day if we went out with those
24 changes to bring them back in line with the opposition
25 that we then created.

1 Does that make any sense at all?

2 CHAIRPERSON PAPARIAN: I mean if we -- but my
3 bottom line is, if we were to decide we wanted something
4 changed in here and wanted another 15 days, another 15-day
5 comment period, could we meet the requirements to get it
6 to OAL in time?

7 MR. WATSON: It is my opinion that we do not that
8 time.

9 CHAIRPERSON PAPARIAN: Let's hear from the Legal
10 Office too.

11 STAFF COUNSEL BLOCK: Sure. Elliot Block from
12 the Legal Office.

13 What Jeff has referenced before in terms of hard
14 deadlines is why it's difficult to answer that question
15 with an absolute yes or no. In terms of looking at the
16 hard deadlines in terms of the Administrative Procedure
17 Act, dealing with 15-day comment periods and the like,
18 theoretically it looks like there might be time to squeeze
19 in one more comment period. But what Jeff is referring is
20 to is once the Board adopts the regulations, there is then
21 a process that involves compiling all the comments,
22 responding to all the comments. You heard Scott mention
23 over a thousand comments on these packages. And we have
24 had a couple of -- the time it takes to do that varies
25 obviously from package to package. We have had a few

1 regulation packages in the history of the Board, more
2 complicated ones, more involved ones, where it has taken
3 between two to three months to do that.

4 If you add another 15-day comment period, it
5 takes another month's time out of doing that compilation.
6 And then what Jeff was also referring to is it will
7 potentially add even more additional comments than the
8 thousand we've got.

9 So in staff's opinion, they've looked at how much
10 they've got still to do in terms of what's sitting at
11 their desk and doing that compilation, and they're saying
12 there's not enough time in there. That's a different
13 analysis than just simply saying, well, 15-day comment
14 period and the deadlines -- it's March 29th I believe is
15 actually the last day this has to go into OAL with the
16 entire compilation done. So it looks like there's a
17 number of months in there. But actually in terms of the
18 amount of work that would have to be done before it can be
19 submitted, it doesn't appear that they have enough time to
20 address some additional issues.

21 CHAIRPERSON PAPARIAN: Do you have to wait until
22 the package is final -- or the regulations are finalized
23 before you start preparing the responses to the comments
24 that came in? Or can that be done -- if we went out to
25 another 15 days, could some of that work be done during

1 that time period?

2 STAFF COUNSEL BLOCK: Two questions.

3 Theoretically, yes, it's possible to do that.

4 The second answer though is a practical one,

5 whether there's in fact staff available to do that.

6 Because if a staff is actually working on the changes in

7 these additional issues, then they don't have the time to

8 be working on the other aspects. And obviously defer to

9 them to answer whether they've got the time to do that.

10 CHAIRPERSON PAPARIAN: Okay. And the staff is

11 suggesting you don't really have the time to do both?

12 MR. WATSON: The practical matter is you need to

13 respond to the comments based on their last version. So

14 as you change things, you may be changing those very

15 responses that you made in previous packages.

16 Does that make any sense?

17 CHAIRPERSON PAPARIAN: Yes, but if the changes

18 were limited to one or two sections, then presumably you

19 could respond to everything else.

20 MR. WATSON: We have begun those parts that look

21 stable. And we were -- we're on those, but I don't

22 believe with us dealing with another 15-day comment period

23 that we'll be able to keep our schedule.

24 ACTING DEPUTY DIRECTOR WALKER: And I'd like to

25 just add in, keep in mind, this is like a house of cards.

1 You pull in a certain direction and the whole thing falls
2 apart. And we've looked at the changes that have been
3 proposed lately by parties who've continued to request
4 these additional changes, and we see substantial
5 opposition out there in particular from some of the LEA's
6 affected by this. So that also increases the problem
7 should we even attempt to go with another 15-day comment
8 period.

9 CHAIRPERSON PAPARIAN: Okay. Any other questions
10 from Board members?

11 Okay. I have one speaker slip.

12 Pete Price, representing Alameda County Waste
13 Management Authority.

14 I don't know if this interchange has helped or
15 not helped in clarifying some of the things you might
16 speak to.

17 MR. PRICE: It's interesting.

18 Mr. Chairman, my name is Pete Price, representing
19 Alameda County Waste Management Authority.

20 I think what I would like to do is go ahead and
21 make my statement and then maybe respond to some of the
22 issues that have been raised just now, if I could.

23 As the Board knows, Alameda County Waste
24 Management Authority is probably the most active and
25 progressive local government entity in the state in

1 promoting recycling and waste reduction. The Authority is
2 fully committed to the AB 939 diversion mandates. And as
3 a matter of fact, county voters have imposed a 75-percent
4 diversion goal on the county.

5 On the subject at hand, composting, the Authority
6 has been very active in Alameda County in encouraging and
7 working with both private businesses and public agencies to
8 implement small scale composting operations. And we
9 actively seek public-private partnerships to increase the
10 county's organics processing capacity.

11 On October 24th the Authority submitted comments
12 to the Board for the period that closed on October 25th.
13 This was the -- at least the third set of comments
14 submitted by the Authority in this process.

15 In each set of comments, including the latest,
16 we've made specific proposals for changes to address the
17 problems that we fear will occur if you adopt these
18 regulations as is. And I want to note that our proposals
19 have changed over time. That's not because we're unclear
20 or confused about the problems we see, but because we have
21 repeatedly tried to respond to staff comments by further
22 refining and narrowing our proposed changes.

23 Our latest comments include specific amendment
24 language that tries to respond directly to comments made
25 by staff at an October 16th meeting we had with staff.

1 That meeting was inspired by comments made by members of
2 the Board at both the last P&E Committee meeting and the
3 las full Board meeting, comments to the effect that you
4 were hopeful that something could be worked out on the
5 issues raised by certain parties including Alameda County
6 Waste Management Authority. We very much appreciated
7 those comments by Board members. And in response we met
8 in good faith with staff and have prepared the proposed
9 language that you have before you in our October 24
10 letter.

11 So what are the problems we hope you can resolve?
12 First, I want to be clear, the Authority does not disagree
13 with the Board that greater regulation of organics
14 processing overall is needed to ensure protection of
15 public health and the environment.

16 We work very closely with our LEA and we know the
17 problems that can arise at these facilities. The success
18 of small composting operations depends in, though small
19 part, on the public's confidence that they will result in
20 a benefit to the public and not create a nuisance.

21 But we cannot support the current reg package for
22 two reasons:

23 Number 1, it goes too far in limiting the
24 activities that qualify as an excluded activity.

25 And, Number 2, it imposes unnecessary

1 requirements on small scale operations that have not
2 demonstrated any threat to public health and the
3 environment.

4 Alameda County knows from firsthand on-the-ground
5 experience how difficult it is to convince a small
6 business or a cash-strapped public agency, and that's just
7 about all of them these days, how hard it is to convince
8 them to undertake a new confusing activity like
9 composting.

10 The only real argument we have is that we can
11 help them do it in a way that saves them money compared to
12 their current disposal costs or at a minimum show that it
13 will be a wash.

14 Now, while disposal costs are mainly a matter of
15 paying a fee to a hauler, on-site composting requires
16 in-house staff. If the additional personnel costs exceed
17 the disposal costs, it's very difficult for us to convince
18 anyone to under take composting. That's the essential
19 formula that we have to deal with every day in working
20 with these entities and that's the formula that the Board
21 must heed if it's serious about wanting to increase and
22 not reduce small scale composting.

23 Now, as to the two issues we raised, first
24 regarding limits on excluded activities. Current
25 regulations exclude composting activity if less than 500

1 cubic yards is on site at any time. And that's regardless
2 of whether the material is generated on site or off site.

3 The Board's proposed regulation allows the
4 exclusion only if the site is still less than 500 cubic
5 yards, but also if only if all the compostable material is
6 generated on site.

7 Now in our recent meeting with staff, we got a
8 better understanding of their concerns about off-site --
9 the bringing in of off-site material. But the proposal
10 before you certainly goes too far in subjecting a small
11 scale composter to the full range of notification
12 requirements even if he brings in any amount of material,
13 even one cubic yard from off site. Our proposal, which we
14 have language in our letter to fix this, strikes a
15 compromise that allows the smallest of these operations to
16 bring material in from off site.

17 The second issue, excessive notice requirements,
18 this regards to what constitutes notice. In the current
19 regulations small composters, between 500 and 1,000 cubic
20 yards -- because, remember, less than 500 cubic yards
21 currently are all excluded -- current regulations require
22 these 500 to 1,000 cubic yard composters only to notify
23 their LEA of their name, address and their other contact
24 information. It's a true notice requirement.

25 But it does put the operator in the LEA's data

1 base and subjects them to LEA inspections, which have
2 always been available to the LEA's.

3 The proposed regulations require any non-exempt
4 facility up to 12,500 cubic yards -- and I would suggest
5 that you consider, there's a great deal of difference
6 between a 600 cubic yard facility and a 12,500 facility --
7 it requires any of these nonexempt facilities to meet what
8 is -- it's still called notification tier, but in fact the
9 requirements go far beyond notice. They included
10 quarterly inspections, extensive odor management plans,
11 load checking of at least one percent of the loads or one
12 truck per day. And, remember, for a small facility, it
13 maybe gets one truck a day. That's a 100-percent load
14 requirement for that facility. Staff training,
15 documentation of staff training, documentation of passage
16 reduction, all these sorts of things are all under what's
17 called notification.

18 Now, while each of these requirements
19 individually may seem innocuous, when you add them
20 together, they represent a significant increase in staff
21 costs for these small-scale composting operations that
22 we're working with. Simply pushes them over their
23 economic threshold. They simply will not continue to
24 operate with these increased costs.

25 Now, having said that, we understand that cost

1 cannot be your only consideration. You have an obligation
2 to ensure that public health and the environment are
3 protected. The real question is, can public health and
4 the environment be protected without imposing these costs
5 that will eliminate the very composting operations we seek
6 to encourage? As we've stated in our previous letters, we
7 believe operations of up to a thousand cubic yards should
8 continue to be excluded activities, as they are currently.

9 In Alameda County to date we do not have a single
10 complaint on any of the partnership projects we work with
11 at this scale. And if complaints should be received,
12 there are numerous sanctions existing for the LEA to use.
13 But in an attempt to find common ground with the Board,
14 our October 24th letter proposes that facilities up to
15 1,000 cubic yards still be subject to most of the
16 requirements of the notification tier; but that the most
17 burdensome requirements, quarterly inspection, load
18 checking and other management plans, only be required if
19 the LEA has determined that the facility has violated odor
20 or contamination standards. This proposal is modeled
21 after similar language regarding agricultural operations,
22 which triggers more stringent regulatory requirements only
23 if the LEA determines there is a problem.

24 Our language would ensure that as soon as any
25 problem is identified by the LEA, the facility would be

1 subject to those full notification requirements. It would
2 recognize -- our proposal would recognize that these truly
3 small scale operations have a reduced ability to bear the
4 regulatory costs, but they also have an obligation to
5 comply with the Board regulation. We are no longer
6 seeking excluded activity status for those facilities.

7 And creating this new category or treatment for
8 these small facilities would create a very strong
9 incentive for them to comply; because they know that if
10 that the LEA sites them, if there is a problem, they are
11 then subject to the full range of notification tier
12 requirements.

13 I want to quickly, Mr. Chairman, note three other
14 points and then include comments that came before me.

15 First, it's been suggested by staff that many of
16 the facilities we work with could be classified under the
17 proposed regs as research operations and, thereby, be
18 subject to fuel requirements. There are two problems with
19 this proposal.

20 First, the operations in Alameda County, with the
21 possible exception of one facility, are simply not
22 research facilities and they're viable commercial
23 enterprises. And it's I think disingenuous to try to
24 squeeze the square peg in the round hole.

25 But, secondly, as we read the proposed regs,

1 research operations are still subject to almost all the
2 requirements that we're concerned about for these small
3 scale facilities.

4 Second, it's been suggested, again here today,
5 that we shouldn't be concerned because there will be a
6 Phase 2 of these regulations in a year or two. Given that
7 it's taken two and a half years to do Phase 1, we do not
8 have a high degree of confidence that these issues will be
9 resolved in a timely manner in Phase 2. Frankly, by that
10 time the damage will be done, all the hard work by Alameda
11 County -- and, by the way, not just Alameda County. I
12 mean we're probably the most able to come up here and
13 speak to you. But also other counties -- city and County
14 of San Francisco has written you a letter, the city of San
15 Diego county, County of Santa Clara, the Regional
16 Counties' Environmental Joint Partnership agreement, I
17 think it was called, all have similar concerns, and the
18 damage will have been done. So we can't wait for Phase 2.

19 Finally, we're aware that these regulations have
20 to take effect by May 1st. I think I'd like to go back --
21 you know, to say there are no hard and fast deadlines,
22 there are a couple of hard and fast deadlines. Within 30
23 days after OAO receives your package, it must approve or
24 disapprove. If it doesn't, they are adopted. And then 30
25 days after that they become effective. So we do have a

1 hard 60-day time period. Everything before that is the
2 Waste Board's -- is when the Waste Board has to do it's
3 work.

4 Staff stated that they are concern that if the
5 Board considered our request to changes and adopted them,
6 that you wouldn't have consensus. I want to remind you,
7 you're got consensus now. We strongly oppose this
8 package. We think it's going to do great harm to small
9 scale composters.

10 And, secondly, I want to agree with Mr. Paparian.
11 I think that going out quickly for another 15-day comment
12 period -- and, remember, the last time you did a 15-day
13 period. P&E Committee met on October 7th and 4 days later
14 the 15-day comment period was over. It was closed by
15 October 26th. Within three weeks you were open and shut.

16 If you did that again, it would not stop the
17 staff from responding to the many comments they have.
18 They have nothing do with our issues. That will not be
19 affected even if you adopt our issues. I think there's
20 plenty of work to be done while another 15-day comment
21 period would be open. And, with that, we believe it's
22 doable and only right to incorporate our proposed changes
23 and initiate the final 15-day comment period so we can
24 increase small scale composting and not unintentionally
25 reduce it.

1 I appreciate your forbearance on these comments.
2 Thank you.

3 CHAIRPERSON PAPARIAN: Does staff want to respond
4 to anything Mr. Price has brought up?

5 MR. WATSON: Not really. I think everything we
6 said prior still stands. We'll continue to work with
7 Alameda County to see the facilities that they believe
8 that would be impacted. Our initial assessment suggests
9 that the impacts are not as great as previously stated.

10 CHAIRPERSON PAPARIAN: Because it does seem to be
11 the one lingering group that has some very strong
12 concerns. And they've -- at least from the letters I've
13 gotten, they've gotten support from San Francisco, from
14 several legislators and from others.

15 But staff feels that -- well, let me it a
16 different way.

17 If the time wasn't an issue, would you be more
18 inclined to go with something along the lines of what Mr.
19 Price has suggested, or would you be more inclined to
20 stick with what you've got in the proposal?

21 MR. WATSON: There is merit to small quantity
22 adjustments. But to do them quickly is dangerous. The
23 choices of words that we do choose in that small quantity
24 make it very, very difficult to enforce. And it is the
25 enforcement kind of trigger -- the small quantity facility

1 is the one that grows, especially the less controllable
2 one is the one that grows to be a problem. It always
3 starts off small. There is always a first bucket that
4 comes in.

5 So that's the problem right now. Even when we
6 did that very quick residential change in the second 15 --
7 or in the first 15-day, there were problems with it. The
8 intent really turned out to be noncommercial. But we used
9 the term "residential." And using the term "residential,"
10 we excluded some facilities that we had even looked at our
11 database to include. It was our lack of ability to see
12 the word "residential" in its true light.

13 So in the same instance it is very, very
14 difficult for me to say that I would go forward with this
15 language without meeting with several groups. I would
16 definitely want to meet with the LEA's. I would
17 definitely want to meet with some of the more urban waste
18 companies. So -- and that's who we met with prior.

19 So I couldn't say that even if we had a lot of
20 time, that I would want to go in with this precise
21 language right now. There is merit to looking at the
22 small quantity generation issue in the State of
23 California. But currently the facilities that are being
24 suggested to be impacted are not as impacted as is
25 implied. So I still -- and it is our intent to contact

1 everyone in Alameda County that would be impacted. And
2 we've already started. As I've mentioned, we've talked to
3 the zoo. And I tried to find out where Rubicon is, and
4 they're not in the phone book at least under the listing.
5 And we haven't gotten a call back from the authority yet
6 on this issue. So we will continue to go forward and meet
7 with them and see what we can do.

8 Their only LEA is not aware of some of the
9 operations in the proposal. So the LEA would not be in
10 agreement currently at this point with this language also,
11 at least the last time we talked to them.

12 So we have substantial research to do. So I
13 couldn't answer that question right now.

14 CHAIRPERSON PAPARIAN: Mr. Cannella and Mr.
15 Medina.

16 COMMITTEE MEMBER CANNELLA: Well, I guess I'm
17 somewhat surprised that we have two obviously intelligent
18 folks who have done a lot research disagreeing on whether
19 it's going to be easy or it's going to be hard or whether
20 you can do it or whether you can't. I would have
21 assumed -- and I guess that's the wrong word to use -- I
22 would have thought that after all this time and
23 discussions that we would have been a lot closer in
24 understanding each other's concerns.

25 But my question specifically is: If we adopt

1 these regulations, how long would it take to implement
2 them? How long do folks have to comply with them?

3 MR. WATSON: For the minimum standards portion,
4 not the permitting portion, for minimum standards portion
5 it would be immediately upon it's date of enactment. So
6 that would be, we could say, within the first quarter of
7 next year, the implementation, for the minimum standards
8 portion.

9 For the permitting portion, it's variable. I
10 would -- it would almost -- the way we've got it set up,
11 it's almost down a site-by-site basis as to when you'd
12 have to respond to the permit aspects of it that meet --
13 more than two years for --

14 COMMITTEE MEMBER CANNELLA: More than two years?

15 MR. WATSON: For certain --

16 COMMITTEE MEMBER CANNELLA: So help the new
17 person understand this.

18 So if we -- for the permit, would Alameda County
19 have two years to comply or would they have two months to
20 comply --

21 MR. WATSON: All the facilities that are referred
22 to right now in this discussion would not received a
23 permit. So they would be on a -- I believe they would
24 be -- well, I don't know that. As a matter of fact, I do
25 not know that they would not need a permit because upon

1 research we found out that the facilities were a little
2 larger than we had thought.

3 So if the facilities are below a thousand cubic
4 yards, let's say, if they're able to retain operations
5 below a thousand cubic yards, then there would be -- those
6 facilities would have EA notification status, it's my
7 understanding. And they would be in a position --
8 basically it's my understanding that they would be in a
9 position in working with their LEA that they could
10 immediately assume that status. It wouldn't have to be --
11 I think some of them are supposedly already in that
12 notification. Of course the LEA couldn't verify that for
13 me at this point because we didn't know which facilities
14 we're talking about.

15 So if they're going from old EA notification to
16 new EA notification, really there's only one thing to do,
17 and that's to be getting an odor impact minimization plan.
18 And we've offered to help all the facilities to do that as
19 soon as they are considered part of you need an EA
20 notification.

21 There's a possibility that depending on if
22 they're an agricultural or if they're below the 500 cubic
23 yards that we have, that they wouldn't even have to
24 respond to that.

25 So I can't say which facilities would have to do

1 what. It would be highly variable. But we're going to
2 work with every facility. And actually Alameda County
3 being so motivated will be good for us to assess
4 implementation.

5 There are still people -- to answer the more
6 realistic question, there are still people responding to
7 the 1995 regs that have not made the change, so to speak,
8 to intent. We had inadvertent versus intentional
9 composting as a test. They haven't made that change.

10 So from an implementation standpoint on a larger,
11 we could be implementing these regs for three years before
12 we get implementation across the State of California on
13 certain minimum standards that are understood and
14 followed by the rest of the operators.

15 COMMITTEE MEMBER CANNELLA: Certainly not for
16 your answer, but I'm more confused now than I was before I
17 asked the question.

18 CHAIRPERSON PAPARIAN: Mr. Medina.

19 COMMITTEE MEMBER MEDINA: Yeah, I just wanted an
20 ex parte, a correspondence that I received from San
21 Francisco Department of the Environment, Jerry Bloom, the
22 Field Director. And basically echoes the same position
23 that the speaker from Alameda County stated. And that's
24 in regard to the concerns about the viable small scale
25 commercial or public agency operations.

1 CHAIRPERSON PAPARIAN: Mr. Jones.

2 COMMITTEE MEMBER JONES: Thanks, Mr. Paparian.

3 I agree with staff for a real simple reason. All
4 the correspondence I got and all the discussions I've had,
5 and Alameda County called me and talked to me, and I told
6 them I couldn't support their changes for a real simple
7 reason. They all want to get away from the OM. They want
8 to get away from the Odor Minimization Plan.

9 We're mandated by law to implement that plan.
10 That was a mandate from the Legislature and from the
11 Governor, that said that we will do an Odor Minimization
12 Plan. They took away the authority to oversee odor
13 complaints from air districts and put it over with our
14 LEA's.

15 So when we start -- you know, it's fine that
16 Alameda County looks at themselves as Alameda County and
17 the city of San Francisco, city and county, say, "We
18 support that." I can understand that.

19 But we all know that we're down fighting in the
20 South Coast Air District the implementation of them
21 putting buildings over composting facilities. And a lot
22 of what's driving it is odors. And a lot of what's
23 driving our efforts to keep that composting -- the
24 entirety of the composting industry is these regulations.

25 And so, like I said before when Alameda first

1 came, there is no way that I can support a change, in good
2 faith, because of the overall statewide perspective. And
3 I don't want to jeopardize the work that we're doing in
4 southern California, trying to get them to move off of a
5 building to best management practices and -- you know,
6 every one of the requests is "We don't want to be
7 inspected. We don't want to check for hazardous waste.
8 And we don't want to do an Odor Minimization Plan." So
9 how do we go in front of an air district when we're trying
10 to keep this entire industry going when we give them
11 license not to have to do that based on a tonnage.

12 I would say, let's look at it over the next
13 couple of years and see where we can carve out where it
14 makes sense. But I sure don't want to jeopardize the
15 efforts with the South Coast, because everybody's going to
16 follow. BAY Area is going to follow as soon as South --
17 whatever the South Coast does, the valley will do and then
18 Bay Area's going to do.

19 So we've got to -- I mean that's -- I got no
20 problem with Alameda doing their thing, but not at the
21 cost of statewide. It's not worth it to me. And, you
22 know, that story hasn't changed on my behalf.

23 MR. PRICE: Well, I didn't come here for an
24 Alameda only exemption. But if that's what you're willing
25 to entertain, we can -- is that -- I don't mean to be

1 glib, Mr. Jones. I mean --

2 COMMITTEE MEMBER JONES: And I'm serious as heck,
3 Pete. I mean and I've --

4 MR. PRICE: Oh, I am too, I am too. But if
5 you're willing to have Alameda County do it's own thing --
6 I mean I don't think that's a solution, to have Alameda
7 County --

8 COMMITTEE MEMBER JONES: It's not a solution
9 because you're blowing right at the heart of what we're
10 mandated to do. We're mandated to put together --

11 MR. PRICE: Then what about this only up to a 500
12 cubic yards? You're not going to have an Odor Management
13 Plan for them. You see, we're not talking about a bright
14 line here. We're simply saying that your regulations have
15 really tried to finesse this subject in a way that we --
16 we don't disagree with the direction you're going. We
17 think it needs to be finessed a little differently.
18 You're already exempting facilities 500 cubic yards or
19 less from the Odor Management Plan, which -- I mean not
20 that I want to see that imposed. But I would think that
21 would cause you some concern. We're only --

22 COMMITTEE MEMBER JONES: It does cause me
23 concern.

24 MR. PRICE: We're only saying for those
25 facilities up to a thousand cubic yards, and as long as

1 they have had no problems, they shouldn't have to do it.
2 And we've got the same kind of provision in an ag sector
3 which says that some ag composting facilities have lesser
4 requirements unless and until the LEA identifies a
5 problem. Then they're subject to the requirements.

6 We're asking for the same thing for small
7 composting facilities up to a thousand cubic yards. If
8 the LEA finds a problem, contamination, of odor, of
9 anything, boom, they're subject to the full notification
10 tier requirements. That seems reasonable to us. And we
11 would ask the Board to open up another 15-day comment
12 period for the purpose of adopting those amendments.

13 CHAIRPERSON PAPARIAN: I'm not looking for nods.
14 I'm looking for something you have.

15 COMMITTEE MEMBER JONES: I mean I'll move the
16 resolutions.

17 CHAIRPERSON PAPARIAN: How do the rest of the
18 members feel about all this, moving forward with these
19 versus some other process?

20 Mr. Cannella.

21 COMMITTEE MEMBER CANNELLA: I sort of had the
22 experience that my colleagues do on the Board. And
23 certainly Mr. Jones speaks from a great deal of knowledge.

24 It seems to me though that what's being proposed,
25 to allow the LEA's the authority based on complaints and

1 noncompliance to enforce the full disclosure, is somewhat
2 reasonable. I don't know about the timelines. I don't
3 know about the mandates. But it seems to me that we are
4 in a position to implement new regulations. And if we're
5 encouraging composting, it seems that we should allow the
6 LEA's the authority based on certain criteria that we
7 would establish to grant a waiver for those at a thousand
8 cubic yards or less.

9 Again, I don't know about the timelines. I don't
10 have the experience. I'm just talking about my own
11 personal preference about what we ought to do. We still
12 are implementing a requirement that apparently legislation
13 has established. But we're modifying it and allowing the
14 locals to determine whether the full notification has to
15 be done or not. And I certainly would feel very
16 comfortable in supporting that kind of an amendment and
17 requiring another 15 days if the time allows for it to
18 happen.

19 CHAIRPERSON PAPARIAN: Mr. Medina.

20 COMMITTEE MEMBER MEDINA: Yeah, I appreciate the
21 concerns expressed by Alameda and San Francisco County.
22 However, a great deal of time and effort has been
23 dedicated to putting these regulations together. And I
24 have to agree with Board Member Jones in regard to his
25 concerns, and I will second his resolution if he wants to

1 move it forward.

2 COMMITTEE MEMBER JONES: Thank you.

3 CHAIRPERSON PAPARIAN: Yeah, I'm torn. I'm
4 sympathetic to Alameda's concerns. But, you know, in
5 probing on the available time, it just sounds like we
6 don't have a way to get around that.

7 If there is some way to move forward with the
8 second phase very -- you know, more quickly, much more
9 quickly than this one was --

10 MR. WATSON: I could respond to that. We've
11 already cut Phase 2 issues into three parts. And the
12 small quantity is in the first part.

13 The metals from our initial conversations with
14 OEHHA and Toxics will not be in the first part of the
15 Phase 2.

16 So we found that -- and there's also some CDFA
17 issues that would not be -- we wouldn't be able to treat
18 expeditiously.

19 So this and a couple of others would end up in
20 the first part of a Phase 2 that you could possibly see
21 action in less than 6 months, especially if I don't have
22 to work on it.

23 COMMITTEE MEMBER JONES: That might be a
24 solution.

25 I meant Jeff not working them.

1 (Laughter.)

2 CHAIRPERSON PAPARIAN: This has become life work.

3 MR. WATSON: No, in all seriousness, we have so
4 many things that we're working. The South Coast AQMD
5 issue is coming to an incredible crescendo right now. At
6 January 1 they just moved their other one back. And this
7 is -- they're very linked, the two issues are incredibly
8 linked. And Mr. Jones has been very perceptive in this.

9 We're in a very tender position in how we are
10 portrayed. And if not the 1,000 cubic yards, we'll have
11 2,000 cubic yards. And if not 2,000, we have facilities
12 that at each one of those levels would click in.

13 I think it's better that we come up with
14 expedited way that a facility would want to be under the
15 protection of our inspections, under the protection of our
16 programs. And I think that's what's concerning you most
17 about this whole issue, to need to avoid us. What are we
18 doing that's so wrong that there is some constant
19 avoidance. Every operator I've talked to has not
20 responded that, once I've explained what I perceive they
21 need to do, that there's a problem at the low levels.

22 So I am fairly confused as to the avoidance in
23 this particular issue.

24 I would like the Board to, you know, ask us some
25 questions in the 90 to 120 day timeframe to see what

1 happened on some of these facilities. We will contact
2 every facility in Alameda County Authority that says that
3 they're going to be impacted by these regs. We can allot,
4 most likely, after January 1 that type of time. But up to
5 that time we need to spend all of our time getting this
6 package ready, to make that. And I don't think it's fair
7 for the State of California to play around with that
8 timeframe under SB 88.

9 CHAIRPERSON PAPARIAN: Okay. Now, let's go back
10 to the Phase 2 for a second. And I want to hear how
11 quickly we can move forward with the Phase 2 as it would
12 apply to the smaller facilities.

13 MR. WATSON: I would suggest that we -- well, I
14 don't know when we could come back forward with direct
15 change in the language. I do not know that. But I would
16 suggest we would be in a position to meet with Alameda
17 County and come up with some proposals that we could float
18 around the state. If these are the ones -- there's some
19 problems with these that would have to be addressed. But
20 if it's close to what they have now, we could probably be
21 in a, you know, informal language building phase in
22 January, February.

23 CHAIRPERSON PAPARIAN: Okay. And then from an
24 informal language to more formal, how long does that take?

25 MR. WATSON: It could take as little as 30 days.

1 But I believe we will have opposition -- unless Alameda
2 County and some other small quantity of generation issues
3 change, we're going to have some opposition that we're
4 going to need to deal with. So it won't be a -- if this
5 were a slam dunk, we would have done it a month ago. The
6 proposal -- even the pared down proposals that are coming
7 forward at this last time are not without problems in
8 implementation.

9 So I am not going to hazard to give you a
10 timeframe on what type of opposition. If we have an
11 incident in southern California, we could be going the
12 other direction there. And that has happened in the time
13 that this regulation package has been there. So I
14 would -- I don't want to lie to you.

15 CHAIRPERSON PAPARIAN: Why don't we have an
16 update at the January P&E meeting, and then -- you know,
17 on your progress on pulling something together on a
18 possible Phase 2 and just to give you a heads-up. It
19 would be my inclination to have some pretty regular
20 updates about how the whole process is going and how it's
21 going with the meetings with the generators and others in
22 Alameda County and elsewhere who have remaining concerns
23 about how the regs are going to affect them and affect
24 their operations.

25 ACTING DEPUTY DIRECTOR WALKER: Absolutely. We

1 can give you -- we can start the updates in January and
2 continue them. We'll be contacting specific facilities
3 affected. And so we'll be in a position to do that. And
4 also with the Phase 2 roll right in and at the top of the
5 list is certainly going to be the small exclusion issues
6 that we can work on and, again, you know, that's something
7 we can certainly be able to do and roll right into it.

8 CHAIRPERSON PAPARIAN: Any other comments before
9 we have a motion?

10 Mr. Jones.

11 COMMITTEE MEMBER JONES: I'm going to make a
12 motion.

13 Just one quick question.

14 The selenium issue, is that part of Phase 2?

15 MR. WATSON: Yeah. The only --

16 COMMITTEE MEMBER JONES: Because our numbers,
17 they conflict with U.S. EPA. Our number's lower than EPA.
18 And Jeff's already described that they're waiting for the
19 National Science's comeback with whatever the appropriate
20 number is. But it's critical.

21 CHAIRPERSON PAPARIAN: It's okay for us to be
22 stricter than U.S. EPA.

23 COMMITTEE MEMBER JONES: I don't have a problem
24 with that. But right now there's bans all over the state,
25 and we need to find somewhere to put this as long as it's

1 safe because, if not, it's all going to end up in our land
2 fills. So --

3 MR. WATSON: I'm not aware of selenium
4 contaminated materials at this point that would be
5 interrupted flow as a result of our smaller number right
6 now.

7 COMMITTEE MEMBER JONES: Good.

8 MR. WATSON: But in that number, the germane
9 issue also is they removed chrome from their list and we
10 have interest in not removing chrome. So if we absorbed
11 their rationale for making the changes, we'd have to make
12 both changes. And that's one of the hitches.

13 I don't see a real problem with the selenium
14 number right now. I do see a problem with the chrome
15 number right now.

16 COMMITTEE MEMBER JONES: I agree with you.

17 Mr. Chair.

18 CHAIRPERSON PAPARIAN: Mr. Jones.

19 COMMITTEE MEMBER JONES: I want to move adoption
20 of Resolution 2002-644, consideration of the adoption of
21 the Negative Declaration (State Clearinghouse No.
22 2002092005) and proposed regulations for the compostable
23 materials handling operations and facilities requirements.

24 COMMITTEE MEMBER MEDINA: Just a correction. Is
25 that 645?

1 CHAIRPERSON PAPARIAN: We have two resolutions.

2 COMMITTEE MEMBER JONES: We have two of them;
3 2002-644, and then the next one will be 645.

4 COMMITTEE MEMBER MEDINA: I'd like to second that
5 resolution.

6 CHAIRPERSON PAPARIAN: Okay. We'll start with
7 644.

8 COMMITTEE MEMBER CANNELLA: One with the
9 environmental?

10 COMMITTEE MEMBER JONES: The Neg Dec.

11 CHAIRPERSON PAPARIAN: All right. Correct,
12 that's this first one, the Neg Dec.

13 Okay. So we have a motion and a second on
14 2002-644.

15 Secretary, call the roll.

16 SECRETARY FARRELL: Cannella?

17 COMMITTEE MEMBER CANNELLA: Aye.

18 SECRETARY FARRELL: Jones?

19 COMMITTEE MEMBER JONES: Aye.

20 SECRETARY FARRELL: Medina?

21 COMMITTEE MEMBER MEDINA: Aye.

22 SECRETARY FARRELL: Paparian?

23 CHAIRPERSON PAPARIAN: Aye.

24 COMMITTEE MEMBER JONES: Mr. Chair?

25 CHAIRPERSON PAPARIAN: Mr. Jones.

1 COMMITTEE MEMBER JONES: I'd like to move
2 adoption of Resolution 2002-645, consideration of the
3 adoption of the Negative Declaration (Clearinghouse No.
4 2002092005) and the proposed regulations for the
5 compostable material handling operations and facilities
6 requirements.

7 COMMITTEE MEMBER MEDINA: Second.

8 CHAIRPERSON PAPARIAN: Okay. We have a motion
9 and a second on that one.

10 Secretary, call the roll.

11 SECRETARY FARRELL: Cannella?

12 COMMITTEE MEMBER CANNELLA: With due respect to
13 my colleagues, no.

14 SECRETARY FARRELL: Jones?

15 COMMITTEE MEMBER JONES: Aye.

16 SECRETARY FARRELL: Medina?

17 COMMITTEE MEMBER MEDINA: Aye.

18 SECRETARY FARRELL: Paparian?

19 CHAIRPERSON PAPARIAN: Aye.

20 Okay. So that moves forward on a 3-1 vote.

21 I think that since they're both part of the same
22 agenda item, we'll move them both forward to the Board for
23 consideration.

24 It's 12:30. We have two items left on the
25 agenda. One is huge.

1 My inclination is going to be to break for lunch
2 at this point.

3 COMMITTEE MEMBER JONES: Works for me.

4 CHAIRPERSON PAPARIAN: All right. Let's do that.

5 What time can we get back, members? It's 12:30.

6 An hour, 1:30 all right?

7 Mr. Cannella, 1:30 okay for coming back?

8 COMMITTEE MEMBER CANNELLA: Yeah.

9 CHAIRPERSON PAPARIAN: Okay. So we'll come back
10 at 1:30.

11 (Thereupon a lunch break was taken.)

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1 AFTERNOON SESSION

2 CHAIRPERSON PAPARIAN: We'll start up our
3 afternoon session.

4 Any ex partes?

5 Mr. Cannella.

6 COMMITTEE MEMBER CANNELLA: Yeah, Mr. Chairman, I
7 do. My hammer introduced himself to me. We didn't talk
8 about anything on the agenda. I did want to declare that
9 I did speak to Mr. Hammer from Looney Toons. I asked if
10 we were on Candid Camera, but we weren't.

11 CHAIRPERSON PAPARIAN: It's Looney Bins. Looney
12 Toons is the Warner Brothers show.

13 CHAIRPERSON PAPARIAN: Mr. Medina.

14 COMMITTEE MEMBER MEDINA: None to report.

15 CHAIRPERSON PAPARIAN: Mr. Jones.

16 COMMITTEE MEMBER JONES: Judy Ware and her
17 esteemed attorney. And I think that's it.

18 Oh an Larry Sweetser. Sorry.

19 CHAIRPERSON PAPARIAN: And I have none to report.

20 So we're on Item J, I believe.

21 ACTING DEPUTY DIRECTOR WALKER: Yes.

22 CHAIRPERSON PAPARIAN: Go ahead.

23 ACTING DEPUTY DIRECTOR WALKER: Thank you.

24 Item J is consideration of the adoption of
25 regulations for the inventory of solid waste facilities

1 which violates state minimum standards. This is Board
2 Item number 51.

3 And Leslie Newton-Reed will provide the staff
4 presentation.

5 MS. NEWTON-REED: Good afternoon.

6 The inventory is the list of solid waste
7 facilities in the State of California that violates state
8 minimum standards for solid waste handling and disposal.
9 It was established in statute in 1989.

10 Over the years, there have been several changes
11 to the procedure for listing a facility.

12 Questions regarding the inventory procedure led
13 the Board to direct the writing of regulations. I
14 introduced what staff has completed in the rulemaking
15 process at the October 2002 Permitting and Enforcement
16 Committee meeting.

17 At the October meeting, the Permitting and
18 Enforcement Committee directed staff to revise the
19 compliance schedule section of the proposed regulations.
20 The revisions were made, including a definition -- the
21 addition of a definition for Executive Director, and the
22 notice was sent out for a 15-day comment period.

23 No comments were received during the 15-day
24 comment period.

25 Board staff, in consultation with the Board's

1 Legal Office, determined that the proposed regulatory
2 amendments are exempt from California Environmental
3 Quality Act.

4 Staff recommends that the Board adopt the
5 inventory regulations Resolution number 2002-576.

6 This concludes my presentation. Are there any
7 questions?

8 CHAIRPERSON PAPARIAN: Any questions, members?

9 No.

10 Okay. Mr. Medina.

11 COMMITTEE MEMBER MEDINA: If there's no questions
12 or comments, I'd like to move Resolution 2002-576,
13 consideration of the adoption of regulations for the
14 inventory solid waste facilities which violate state
15 minimum standards.

16 COMMITTEE MEMBER CANNELLA: Second.

17 CHAIRPERSON PAPARIAN: Okay. We have a motion by
18 Mr. Medina, a second by Mr. Cannella.

19 Secretary, call the roll.

20 SECRETARY FARRELL: Cannella?

21 COMMITTEE MEMBER CANNELLA: Aye.

22 SECRETARY FARRELL: Jones?

23 COMMITTEE MEMBER JONES: Aye.

24 SECRETARY FARRELL: Medina?

25 COMMITTEE MEMBER MEDINA: Aye.

1 SECRETARY FARRELL: Paparian?

2 CHAIRPERSON PAPARIAN: Aye.

3 All right. Consent?

4 Okay. Next we have Item K.

5 ACTING DEPUTY DIRECTOR WALKER: Yes, Item K is
6 discussion and request for rulemaking direction on
7 noticing revisions to the proposed regulations for the
8 landfill closure and postclosure maintenance for an
9 additional 15-day comment period. This is Board Item 52.

10 Mike Wocknick will provide the staff
11 presentation.

12 MR. WOCKNICK: Good afternoon.

13 As Committee members should remember, the Bureau
14 of State Audits did a report on the Waste Board that was
15 released in December of 2000. Included in that report
16 were recommendations that the Board revise its regulations
17 concerning landfill closure and postclosure maintenance.
18 In response to that recommendation the Board in May of
19 2001 issued Resolution 2001-135, which directed staff to
20 revise regulations to do four things: One, permits for
21 closed landfills; to control trickling waste and/or
22 closure delays; approval of closure plan for solid waste
23 facility permit concurrence; and reestablish the Waste
24 Board as coordinating agency for closure plans.

25 The regulatory schedule's gone in a two-phase

1 process, what's known in the regulations, with an informal
2 and a formal phase.

3 The informal phase started in November of 2001
4 and concluded in May of 2002, which included several
5 informal drafts, workshops, and a number of meetings with
6 various stakeholder groups, including LEA's, industry
7 representatives, rural counties, et cetera.

8 The formal 45-day comment period went from July
9 19th through September 2nd, with a public hearing held on
10 September 9th.

11 During the formal comment period only three
12 formal comments were received. And of those three one,
13 was from a coalition of landfill operators that said they
14 concurred with the regulations as proposed.

15 And in addition we did see some informal comments
16 and questions, et cetera, during the process.

17 Coming before you today were some minor changes
18 to the proposed regulations. Changes are in two parts:
19 One, to clarify the original regulatory intent; and, two,
20 to provide consistency with other regulations, primarily
21 the Water Board's regulations. And these are changes made
22 primarily to various questions and comments received
23 during the formal process.

24 There was some other suggested changes that staff
25 is not recommending to be made. And the main reason for

1 that is that these comments were similar to identical to
2 comments that were received during the informal process,
3 which have already been considered by staff, and that
4 those changes would be either counterproductive to the
5 intent of the regulations or were not necessary.

6 Staff recommends that the Committee approve
7 noticing the revised regulations for an additional 15-day
8 comment period. And provided that the Committee does
9 direct that, our intent would be to come back in December
10 for recommendations for approval.

11 That concludes my presentation. I'd be happy to
12 answer any questions the Committee may have.

13 CHAIRPERSON PAPARIAN: Any questions, Committee
14 members?

15 Mr. Jones.

16 COMMITTEE MEMBER JONES: Just two.

17 We're sticking with the idea that the permit
18 that's gone along with this facility forever is going to
19 stay intact, and all we're doing is revising an existing
20 document for closure?

21 MR. WOCKNICK: That's correct.

22 COMMITTEE MEMBER JONES: Okay. That's fine. I
23 just wanted to make sure.

24 And on page 52-11, would be Section 21685, CIWMB
25 - Proposed Permit. It's line 41 from that page. It says

1 that the Waste Board will stamp the proposed permit with
2 the date of receipt at the time the envelope is opened.

3 That is kind of contradictory, I think, to what
4 changes have happened at this Board over the years where
5 permits used to languish sometimes -- maybe not this
6 Board, but maybe an older Board -- because, you know, that
7 language could be clever enough that a permit application
8 goes in and it doesn't get opened for three months. And I
9 don't think that's the intent. Or I know it's not the
10 intent. But I think you ought to look at maybe changing
11 that language that, you know, you're going to do something
12 within a matter of so many days, to start the clock.
13 Otherwise the clock doesn't start. Right?

14 MR. WOCKNICK: I believe so. Actually that
15 change was beyond the scope of this regulation package,
16 because that's actually a permit issue as opposed to a
17 closure plan issue.

18 But, you know, that's something I guess we can
19 consider. Because the only change in that particular
20 section would have to do with the submittal of the closure
21 plan with permit application, not the permit application
22 process itself.

23 COMMITTEE MEMBER JONES: Okay. Then let me back
24 up a little bit.

25 Aren't permits dated when received, to start your

1 clock?

2 MR. WOCKNICK: I'll turn to Mark.

3 COMMITTEE MEMBER JONES: I don't mean to belabor
4 this. It just that it's an important issue.

5 ACTING DEPUTY DIRECTOR WALKER: Fortunately we
6 have our permit expert right here. So --

7 COMMITTEE MEMBER JONES: I know. We're lucky.

8 CHAIRPERSON PAPARIAN: I guess part of the
9 question is -- is this existing reg or is this part of the
10 proposed --

11 MR. WOCKNICK: That's existing reg.

12 CHAIRPERSON PAPARIAN: That's existing reg.
13 There's no proposal to change?

14 MR. WOCKNICK: Not at this time, no. I was
15 looking at closure plan related regulations, not permit
16 related.

17 MR. de Bie: And I concur, that's existing
18 language. And the way that it operates is when the
19 permit -- or the envelope containing the permit is opened,
20 it's date-stamped in there. And we don't let envelopes
21 sit for a long period of time, especially since we don't
22 know what's in that envelope. And we do open it.

23 And LEA's don't necessarily label envelopes that
24 say "contains proposed permits." So we open all the mail.
25 And when we open it, we date-stamp it.

1 And I think it's important to keep language like
2 that -- that specific language, and we would need to
3 change the permit regarding -- to change the language
4 because sometimes we get permits E-mailed to us. And so
5 I've asked staff to kind of consult and figure out when
6 that envelope got opened when we got a permit E-mailed to
7 us.

8 So it sets up a lot of policy procedure issues.
9 So, you know, right now that isn't a change that's
10 proposed in these regs. And that's, you know, standard
11 operating practices.

12 ACTING DEPUTY DIRECTOR WALKER: We could
13 certainly add in the intent -- that clearly it is not our
14 intent to receive something in the mail and sit on it for
15 an extended period of time just to delay opening it. We
16 could clearly state that in our notice of --

17 COMMITTEE MEMBER JONES: Well, if it's consistent
18 with existing regs. Because, you know, those regs got
19 changed to a definite time line it's on the Board to
20 respond, because they used to languish for a long, long
21 time. So If it's consistent, that's cool. But we ought
22 to look at it the next time around to clear it up, because
23 you fine folks might not be here, you know, to make sure.
24 Maybe somebody a generation away.

25 Thanks.

1 CHAIRPERSON PAPARIAN: Okay. Anything else?

2 You were not looking for a motion. You were
3 looking for direction to notice the revised regulations
4 for an additional 15-day public review and comment period.

5 MR. WOCKNICK: That's correct.

6 CHAIRPERSON PAPARIAN: Everybody up here seems to
7 be nodding their head, so you have such direction.

8 MR. WOCKNICK: Thank you.

9 CHAIRPERSON PAPARIAN: All right.

10 Item L the C&D regs.

11 Just to kind of take stock of where we're at with
12 the C&D regs, what the agenda item -- what staff proposed
13 was that they would like us to go out for an additional
14 30-day comment period.

15 My inclination at this point would be to hear all
16 the testimony that there is to hear today. And depending
17 on what we hear, we may have some comments, you know, from
18 the Board members. But my inclination is going to be to
19 provide staff some direction based on those comments to
20 continue to work on the issue, the parties, and then come
21 back in December for additional work, and at that point
22 start the 15 or 30 day clock.

23 I just want to see how the members react to that.

24 Mr. Cannella, you've got the microphone.

25 COMMITTEE MEMBER CANNELLA: Well, it is, you

1 know -- and I beg the members' indulgence. It's a big
2 issue. I've not been here long enough to really get a
3 grasp on it. I would appreciate -- and I understand it's
4 something that this -- I'd request that we postpone this
5 until next month to give us more time or give me more time
6 to understand the issues and to be better informed when it
7 comes time to cast the vote.

8 CHAIRPERSON PAPARIAN: Okay. But in terms of
9 hearing the testimony today, you're fine with hearing --

10 COMMITTEE MEMBER CANNELLA: Yeah, I'm sure people
11 have come from long distance to give testimony. So I
12 wouldn't have any problems with it being open for
13 testimony. But I would delay any kind of an action until
14 next month.

15 CHAIRPERSON PAPARIAN: Okay. Any other thoughts
16 before we dive in?

17 Okay.

18 COMMITTEE MEMBER MEDINA: I just have one ex
19 parte. I received one phone call from Dennis on this.

20 CHAIRPERSON PAPARIAN: Okay. Thank you.

21 Mr. Walker.

22 ACTING DEPUTY DIRECTOR WALKER: Okay. Item L is
23 discussion and request for rulemaking direction on
24 noticing revisions to the proposed construction and
25 demolition and inert debris processing tiered regulations

1 for an additional public comment period. This is Board
2 Item number 53.

3 Just a couple introductory points. As you know,
4 in September the Board directed us on a vote of 4 to 2 on
5 really the direction on four key issues that we have with
6 regard to this reg package: Tonnage threshold for full
7 permit on C&D processing facilities; the debris versus
8 waste definition; the C&D-like material; and the second
9 part of the two-part test, 10 percent residual, are core
10 issues that we needed some direction on.

11 And we had some suggested direction, which there
12 was the 4-2 vote on. And so based on that direction we
13 prepared in this item a set of regs to implement that
14 direction, with the understanding that clearly the
15 Committee has a number of different issues that they have
16 to deal with and that they could so direct us to make
17 changes if they so desired it.

18 One thing I wanted to point out too is that staff
19 did have a chance since the direction of September to
20 visit a number of facilities out in the field, so they
21 have some perspective based on those visits with regard to
22 these regulations, with some feedback and some suggestions
23 for some further aspects of the regs, in particular the
24 debris versus waste issue.

25 So before the public testimony I wanted to just

1 get a sense of -- from the Chair, would you like staff to
2 give an abbreviated presentation of where we are, kind of
3 give a brief overview, or just go straight to the public
4 testimony?

5 CHAIRPERSON PAPARIAN: Well, based on what you've
6 done in the last month, including, I understand, quite a
7 few site visits -- I understand Mr. de Bie and others have
8 been out to over a dozen sites.

9 MR. de Bie: Nineteen.

10 CHAIRPERSON PAPARIAN: Nineteen sites altogether.

11 Is it going to be your inclination to do anything
12 differently in the regs based on -- or recommend anything
13 differently on the regs based on your site visits?

14 MR. de Bie: Yes. And we'd like an opportunity,
15 if the Committee feels appropriate, to share some of the
16 insights that we did receive.

17 Much of the proposed revisions to the regs from
18 the 45-day comment period, that you should all have a
19 copy, was based on not only written comment during the
20 45-day comment period, also verbal input, but also our
21 site visits. And so I think sharing what we saw at those
22 sites and what we took away from it and then how that got
23 interpreted into these revisions may be helpful.

24 Also we're prepared to have a brief overview too
25 for Member Cannella, you know, for further context if

1 that's appropriate too. We'd like to have a chance to at
2 least tell you a little bit about what we've learned in
3 the last couple of months.

4 CHAIRPERSON PAPARIAN: Why don't you just go
5 ahead and do that. We've got the time and the interest to
6 do that.

7 MR. de Bie: Thank you.

8 (Thereupon an overhead presentation was
9 presented as follows.)

10 MR. de Bie: This is going to be a shared
11 presentation.

12 COMMITTEE MEMBER MEDINA: Excuse me. Before we
13 proceed I just had one question. And that's, are we going
14 to hear the same report and the same testimony before the
15 full board?

16 CHAIRPERSON PAPARIAN: My inclination would be
17 not this month. That if we proceed with giving staff some
18 thoughts based of the testimony that we hear today and ask
19 them to come back in a month for a possible 15-day notice,
20 that that would be the end of this issue for November as
21 far as Board meeting time.

22 Is that all right?

23 COMMITTEE MEMBER MEDINA: Yes.

24 MR. de Bie: Great.

25 And hopefully part of what we present as well as

1 the speakers that follow will provide the Committee some
2 information that they can use in forming their opinions
3 more about these regulations between now and next month.

4 And what we would propose to outline for you is,
5 very briefly, a short history of events how we got to
6 today. Recap, as Mr. Walker did, but a little bit more
7 detail about the four main issues that the Committee gave
8 direction on and how that was interpreted into actual
9 regulation language; what staff have been doing since
10 September when the Board gave us direction in terms of
11 site visits; and we have some photographs to share with
12 you and some assessment of the sites that we visited; and
13 also indicate how we've modified the regs, taking you into
14 some of the data that we collected on those visits.

15 Options for the Committee. We have proposed
16 various options. I'm hearing that the Committee may want
17 to roll this to next month, and so we'll at that point
18 inform you of how the time frames will play out so you
19 have that context too.

20 By deferring this potentially another month we
21 kind of squeeze the time frames that are available to us
22 certainly today. But we'll outline what kind of noticing
23 and public comment periods might be available to us. And
24 then next steps hopefully will be, not sharing too much on
25 this, but seeking guidance from the Committee on what they

1 would like us to pursue between now and next month or the
2 next time this is heard.

3 So with that overview I'll pass it on to Allison
4 to layer in the details on these topics.

5 MS. REYNOLDS: Good afternoon. My name is
6 Allison Reynolds.

7 In January of this year the Board directed staff
8 to formally notice the Phase 1 C&D and inert debris
9 processing regulations. The formal comment period began
10 in May 31st and concluded on July 15th.

11 Staff solicited input from stakeholders at two
12 public workshops and at LEA roundtables. A public hearing
13 was held in August, and stakeholders requested more review
14 time.

15 --o0o--

16 MS. REYNOLDS: In September the Board directed
17 staff to visit more sites and return in November with
18 revised regulations for consideration of an additional
19 comment period that reflects staff-preferred options for
20 resolving the issues presented at the August and September
21 meetings.

22 And actually Scott already talked about the four
23 key issues, but, real quick: They're 500 tons per day for
24 full permit threshold; add C&D waste to the definition:
25 Include source-separated C&D-like debris at CDI sites; and

1 not to apply the second-part test to the 98 percent
2 recyclables to the definition of CDI processing operations
3 and facilities.

4 --o0o--

5 MS. REYNOLDS: During the month of October Board
6 staff visited 19 C&D processing sites and redrafted the
7 regulations based on Board direction, comments received
8 during the 45-day comment period in-site visits.

9 Following are photos taken from site visits with
10 a determination of where the sites would be placed into
11 the permit tier structure following approval of this
12 rule-making package.

13 --o0o--

14 MR. de Bie: And if I may, Allison, just
15 interrupt. In that last slide you saw that we not only
16 visited C&D -- mixed C&D sites but C&D wood sites, just
17 wood, as well as some transfer station MERF kind of
18 operations that have a C&D wastestream that they handle
19 separately. So we tried to look at the universe of sites,
20 not just those specifically addressed by some aspects of
21 these regs.

22 A major component of these regs is the inert
23 processing, chip and grind of C&D wood material as well as
24 the mixed C&D wastestream.

25 MS. REYNOLDS: This is a chipping and grinding

1 site that is not currently regulated. It takes in up to
2 500 tons per day of source-separated C&D and compostable
3 materials, green waste.

4 If all the green waste received had been
5 commingled from construction work projects and did not
6 come to temperature, it could be considered to be a C&D
7 chipping and grinding operation in the registration tier.

8 Because this site takes a potentially
9 decompostable green waste along with C&D, it would be
10 considered to be a compostable materials chipping and
11 grinding facility regulated under a different set of
12 regulations.

13 --o0o--

14 MS. REYNOLDS: This is an unregulated chipping
15 and grinding operation. The new regulations would require
16 a permit as a CDI processor up to 500 tons and be in a
17 registration tier due to the fact that the facility
18 accepts roofing shingles.

19 Material that has been stored for over a year
20 here would not be allowed under the regulations. It would
21 constitute disposal, requiring the LEA to take appropriate
22 enforcement action pursuant to Title 14 CCR 18304.

23 The facility has not met, but would be required
24 to meet, the 15-day requirement to process incoming
25 material. The operator would have a limit on the material

1 stored on site at any time based on the incoming tonnage.

2 The operator would need to remove all stored
3 material within one year, which has not occurred at the
4 site. The facility would have to minimize dust, vectors,
5 and other state minimum standards, which it's the not
6 currently required to comply with.

7 --o0o--

8 MS. REYNOLDS: This site is currently
9 unpermitted. It accepts up to 500 tons per day of
10 construction and demolition debris along with self-haul
11 and green waste from florists and landscapers.

12 The facility will be regulated as a transfer
13 station due to the high putrescible materials received and
14 because the source of the material is not C&D or C&D-like.

15 Accepting this type of a debris prohibits it from
16 being placed into the C&D tiers and would require a full
17 solid waste facility permit under the transfer processing
18 regulations.

19 --o0o--

20 MS. REYNOLDS: This facility is not currently
21 regulated and accepts up to 500 tons per day of C&D
22 debris. Loads of material are sorted immediately, and 100
23 tons of nonputrescible residual, which is shown to the
24 bottom left, goes to the landfill.

25 Upon visiting this site and observing the

1 residual Board staff felt a need for clarification on the
2 48-hour removal on residual material, which will be added
3 to the regulations; although there is an existing state
4 standard for the removal of stored solid waste.

5 --o0o--

6 MS. REYNOLDS: The same facility also diverts
7 approximately 80 percent of their material in the form of
8 various products seen above. This site would be eligible
9 for a registration permit. The facility, like many
10 others, are located in a heavy industrial area, not
11 needing site-specific conditions.

12 --o0o--

13 MS. REYNOLDS: This is an unpermitted site that
14 accepts concrete, asphalt, metals, and wallboard. This
15 C&D site accepts less than 100 tons per day and would be
16 placed in the EA notification tier.

17 --o0o--

18 MS. REYNOLDS: This site is currently permitted
19 as a transfer processing facility, although it takes
20 typical C&D materials. It accepts over 500 tons per day
21 and would be placed as a full permit tier.

22 --o0o--

23 MS. REYNOLDS: During the site visits staff found
24 that a 15-day reduction of storage time for unprocessed
25 debris was warranted and also that a 48-hour removal

1 frequency was added for residuals, materials destined for
2 disposal.

3 This removal frequency's actually more stringent
4 than the transfer processing regulations, where the 48
5 hour frequency applies only to the facilities.

6 Now, staff want to bring to the Committee's
7 attention an omission in our proposed regulations.

8 I can wait on this and fix it for December.

9 MR. de Bie: You're referring to the 48-hour
10 notice? Yeah.

11 And Allison's just referring to something that we
12 found that we failed to do. There's a reference to the
13 transfer stations in terms of regulations in terms of
14 removing waste from the site in 48 hours. And we wanted
15 to be more specific, that any material after processing
16 that isn't recycled would need to be removed in 48 hours.
17 So basically deemed that to be the waste that needs to be
18 received. So just specify what material we're talking
19 about in the more general point over.

20 So that would be -- it sounds like we may have an
21 opportunity to work on that between now and the next time
22 the Committee hears this.

23 MS. REYNOLDS: I can put that in a new version.

24 --o0o--

25 MS. REYNOLDS: Here are is some highlights of

1 changes which have been made to the regulations based on
2 comments received during the 45-day comment period,
3 roundtables, workshops, and other meetings held with
4 stakeholders.

5 This chip -- multiple chip and grind operations,
6 we added some information to that and other changes as
7 noted above.

8 MR. de Bie: What we've outlined here are the
9 specific things that we've changed, based again on input
10 that we received during the 45-day comment period and some
11 of what we determined relative to our site visits.

12 One thing that we haven't proposed in the changed
13 version is looking again at the definition. This was one
14 of the issues that we brought to the Committee and asked
15 for guidance on on how to construct the definition of C&D
16 waste / C&D debris. And the Committee at that time
17 indicated a preferred option of using both terms, waste
18 and debris.

19 Found out visiting a lot of these sites, and
20 specifically some of the sites that have indicated through
21 their testimony, written and otherwise, that the term
22 "debris" is beneficial to them for various reasons, siting
23 reasons being primarily the main one.

24 Also issues about stigma and that sort of thing
25 of being labeled as similar to an MSW transfer station.

1 Through our site visits, we identified that there
2 were far fewer sites out there that, in our opinion, would
3 actually benefit from the term "debris" in the definition
4 of the waste stream as in terms of material they're
5 handling. And so I think staff is to a point now where
6 we're fine with asking the Committee with providing
7 further guidance on this definition issue and potentially
8 bringing back the definition more in line with what's
9 currently in reg and just utilizing the term "waste" and
10 not utilizing the term "debris." And that would be in two
11 places in the regulations, the more general definition of
12 C&D and then the specific definition that's used to define
13 C&D sites.

14 So that is something that's not currently
15 expressed in the version of the regs that we sent out
16 associated with this agenda item, but it's certainly
17 something that staff's opinion has changed on and we're
18 willing to open that up and discuss with the Committee or
19 seek guidance from the Committee on whether we should move
20 away from the term "debris" and just stay consistent with
21 "waste".

22 --o0o--

23 MR. de Bie: So the previous slides were just
24 talking about time frames relative to noticing. But we're
25 hearing from your discussion that there may be a request

1 to just continue this till next month. So to give you
2 some context about overall time frames, so you can look at
3 this slide, indicating that in March we would need to have
4 the Board adopt these regulations so that we could
5 complete the rule-making process and have it submitted to
6 OAL by May 31st, the cutoff period.

7 And I'll ask Bob Holmes, who helps us with time
8 frames, to indicate to the Committee how that might work
9 out in terms of numbers or types of notices that we could
10 do between today and that March timeframe.

11 MR. HOLMES: Good afternoon.

12 We took at a look at a couple different scenarios
13 over lunch. So we're working backwards from that May
14 31st, 2003, deadline. And would say that the absolute
15 latest that we would ask the Board to adopt the
16 regulations would be the March Board meeting. Therefore,
17 the time we have between now and the March Board meeting
18 we figure that we can afford to go out for a 30-day -- if
19 the Committee would give that direction today, would get a
20 30-day in before January.

21 Also, if you decide to take some more time or
22 give direction to work on the regs and come back in
23 December to the December Committee and then give direction
24 to do a 15-day and come back in January, then -- each of
25 those scenarios there could be opportunity to do one more

1 15-day. So what we're saying is a 30 plus a 15 if that
2 direction came today; if the direction comes in December,
3 it would be a 15 and a 15.

4 Any questions about that?

5 CHAIRPERSON PAPARIAN: No.

6 Go ahead.

7 MR. de Bie: As you were aware, staff was
8 proposing seeking direction from the Committee to do a
9 30-day today, thinking that that would give then plenty of
10 time for continued input and work on these regs. When you
11 go to a 15-day that just narrows the window to problem
12 solving to work things out and turn things around. But it
13 is doable to do either a 30 and a 15 if we start today or
14 two 15's if we start in December.

15 And that would conclude staff's presentation.

16 CHAIRPERSON PAPARIAN: Thank you.

17 Let me just ask a couple things to just help
18 frame the discussion.

19 So the suggestion that you've made on using the
20 existing definition -- obviously some people -- well,
21 obviously they can speak for themselves. But I believe
22 some people will be happy with that change, using just
23 "waste" and not "waste" and "debris" and some people will
24 be unhappy with it if we were to make that change. But
25 that is what you're suggesting, is going to the existing

1 situation where we would just have a single definition for
2 waste.

3 MR. de Bie: The definition per se would not
4 change. It's just the term that's used in the definition.
5 We would remove the term "debris" from that definition.
6 But the definition would remain intact.

7 Yes, some would feel that that is warranted. And
8 they would base that on testimony that we've received.
9 And since this was a previous issue, we are aware that
10 other people would be concerned with the term "debris"
11 being left out of the definition.

12 So, you know, there will be voices raised in that
13 area too.

14 CHAIRPERSON PAPARIAN: Okay. So if we were to
15 make that change, understanding that some people would
16 like it and some people would not like it, that would
17 leave two other major issues out there. And the two other
18 major issues are the tonnage, whether the 100 to 500 gets
19 a notification permit or whether they get a full permit at
20 100 tons.

21 MR. de Bie: Just a correction. Registration
22 between 100 and 500.

23 CHAIRPERSON PAPARIAN: Excuse me. Right,
24 notification is under 100.

25 MR. de Bie: But certainly, as evidenced from the

1 written testimony that we received, that still remains an
2 issue among others what that cutoff should be to move into
3 a full tier.

4 CHAIRPERSON PAPARIAN: Okay. And then the other
5 major issue that's still out there is the residual. I
6 mean it's not still out there. We gave some direction
7 last month. But that's an issue that people continue to
8 raise, is the residual?

9 MR. de Bie: Yeah. And my sense is, as Mr. Jones
10 indicated last time we talked, is there's a linkage
11 between tonnage and residual, that some of the proposals
12 in terms of solution have indicated higher numbers with a
13 residual number, some have indicated lower numbers and no
14 residual. So there's a linkage there, but certainly they
15 could be separated out.

16 And what I've heard is a different way of
17 approaching that percentage. As it was previously
18 expressed to staff as being sort of overarching all C&D
19 sites no matter where they were would need to comply with
20 a percentage residual or being moved into being considered
21 transfer station's, as MSW transfer stations. I've now
22 heard some testimony regarding linking it to moving from
23 one tier to the next tier, which is a little bit different
24 scenario than previously expressed. So if you're at X
25 amount tonnage but your residuals are high, that may be a

1 criteria to move you into the next level of permit.

2 CHAIRPERSON PAPARIAN: Okay. And my last
3 question is, if the C&D -- if these regs do not go into
4 effect -- obviously, as you showed in the pictures, that
5 some facilities would be regulated under other regs that
6 probably ought to have been anyway. But some of the C&D
7 facilities that are out there, if we didn't have these
8 regs, they would continue to be unregulated?

9 MR. de Bie: Per the Board's policy as included
10 in Advisory 58, it's -- sorry -- 12, way back when, it
11 indicates a preference to have LEA's not process
12 applications pending development of regulation. So in
13 effect those that truly are C&D processors would go
14 unregulated. The ones that you were seeing in our slides
15 are ones that -- through the clarification that we're
16 developing through these regs, it would be indicated are
17 transfer stations and don't qualify for C&D. But they
18 didn't know that because -- or still don't know that
19 because we haven't really defined what is what.

20 So it's not like they should have a permit right
21 now today. It's just that when these regs are developed
22 it would be clear which kind of permit they should get,
23 transfer station or C&D.

24 So certainly the Board could, you know, look at a
25 policy direction relative to how LEA's and operators

1 should be regulated in the gap period. But right now, for
2 many years now, Advisory 12 is way back when? -- '94 --
3 thank you, Allison -- it was wait till regs are developed
4 and then start the process to put them into tiers.

5 CHAIRPERSON PAPARIAN: Okay. Mr. Jones.

6 COMMITTEE MEMBER JONES: Thanks, Mr. Paparian.

7 Just a couple quick things. Those people that
8 are taking in source-separated C&D material by type
9 operate under -- as a recycling center, right?

10 So they would be out of the regs. So once
11 they're source-separated by material type, operate, you
12 know, within our framework as a recycling facility?

13 MR. de Bie: Yeah, if they're meeting the --

14 COMMITTEE MEMBER JONES: -- the two-part test?

15 MR. de Bie: -- three-part test now, they would,
16 yes.

17 COMMITTEE MEMBER JONES: Okay. So the ones that
18 are in limbo are the ones that have called themselves
19 something other than what they are?

20 MR. de Bie: Well, all of the ones that are
21 handling mixed C&D, which would be source-separated
22 necessarily, and may or may not be high in putrescibles,
23 are kind of in limbo, yeah.

24 COMMITTEE MEMBER JONES: Could I get Site D -- or
25 the slide that showed Site D -- like duck, David -- if

1 that's possible.

2 I just have a question about residuals that I
3 think that will help them illustrate.

4 Okay. The lower left-hand corner is a 100 tons
5 of residual for that day. And there's a 48-hour
6 requirement under law to move that material out anyway.

7 Well, there is at every transfer station. Maybe
8 there isn't for them, but --

9 MR. de Bie: At the transfer station, yes.

10 COMMITTEE MEMBER JONES: Right. So if they
11 got -- if in a second day they pulled out another 100
12 tons, so they doubled that pile, and they start pulling
13 the material out, there's always going to be a pile of 100
14 tons, right?

15 MR. de Bie: Correct.

16 COMMITTEE MEMBER JONES: Because of that residual
17 number you're going to have this thing twice that size
18 sitting, waiting to be hauled away if they have enough
19 trucks to get it to a landfill.

20 MR. de Bie: Yes.

21 COMMITTEE MEMBER JONES: So I think that picture
22 illustrates the volume that we're looking at for residual
23 waste. And depending upon an operation's diligence in
24 removing that waste -- the fact that they have a 48
25 hour -- which I understand, I'm not asking to change that.

1 I'm just saying, you know, it's always been 48 hours. But
2 you get a pile twice that size and somebody's struggling
3 to take that out, that pile doesn't go away. That pile
4 always sits there at some point. Not always. But I mean
5 it takes an effort to get that pile knocked down.

6 So I just want to use it as an illustration that
7 because there's two days, there's going to be 200 tons,
8 not 100 tons -- or it could 200 tons.

9 MR. de Bie: Well, there should be less than 200,
10 because as soon as they open up they should be moving that
11 stuff out to assure that they remove all 100 from the
12 previous time.

13 It's not clear in that slide, but this site was
14 handling just C&D. And the constituents of that residual
15 pile was just materials that could not be recycled. This
16 site was pulling out mostly lumber, steel, some paper,
17 certainly concrete and dirt. And a lot of that pile was
18 just sort of plastics and some green material. You know,
19 not a lot of putrescible waste in this particular waste
20 stream. So just -- it's not clear in the slide, but, you
21 know, it's a pile that, in my opinion, could probably sit
22 for seven days and still not create an issue.

23 But certainly if there were residuals with high
24 putrescibles in it, 48 hours would assure that that
25 material could not lead to creating some problems relative

1 to vectors, odors, and that sort of thing. Just as in a
2 transfer station that's open during the weekend and
3 receives material and then doesn't haul any of it out
4 until on Monday, that material's been sitting there for 48
5 hours, and then it gets hauled out on Monday. So it's a
6 similar scenario that we see in MSW landfills or transfer
7 stations that doesn't seem to create issues either.

8 COMMITTEE MEMBER JONES: Really.

9 CHAIRPERSON PAPARIAN: Okay. Have any other
10 general questions before we jump into this?

11 I have quite a few speaker slips, including a
12 PowerPoint presentation.

13 But, wait. Now, hold on. Don't jump up yet.

14 Mr. Edgar has requested that four speakers get up
15 in the context of his presentation. And he has a
16 PowerPoint.

17 I think just to kind of help balance things a
18 little bit I'll take a couple of the C&D folks first. And
19 then I'll go into Mr. Edgar, and then we'll go into the
20 other speakers that we have.

21 So I'll start with, if that's all right with
22 members, I'll start with Kelly Ingalls, followed by Mike
23 Hammer. And then we'll get into Evan's presentation.

24 MR. INGALLS: Good afternoon. I'm Kelly Ingalls
25 with the Construction Materials Recycling Association.

1 Just to kind of give you a perspective on what
2 we're doing on our end of the association, we have formed
3 a working group on our own that is put together with a few
4 of the mixed CDI processors -- three facilities now -- I'm
5 chairing the working group -- to come up with a position
6 paper.

7 We also have a working group that deals with road
8 base. But this isn't what I'm talking about.

9 The position paper on these tiered regs, as we
10 call them, the C&D tiered regs, to present to you to give
11 you some perspective from the operators' and the
12 facilities' point of view on the issues and the concerns
13 that we have about the regs.

14 The position statement that we are going to draft
15 will be drafted prior to your next meeting, whether it's
16 your Board meeting or your next Committee meeting, and
17 presented to you. We are hoping to add two more
18 facilities, so we'll have about five, and get a consensus
19 on where we are with the different points and the various
20 issues that we have.

21 I'll be requesting to meet with each of the Board
22 members and staff as well as the Governor's office, the
23 AOL, and anyone in the Legislature who wants to hear from
24 us about our concerns. This is going to be an ongoing
25 issue until it's adopted.

1 We have a longer list of issues that we think are
2 critical at this point, not the least of which is the
3 definition and what we're talking about with residuals. I
4 won't go into this now because there are others here who
5 are going to be able to address that at this time. But we
6 certainly will have it in writing.

7 Actually I'm here today to make a couple of
8 requests in terms of this process. One of them is the
9 concern that we have that this process of adopting the
10 tiered regs has been protracted. It's been five years
11 now. One other member and I have been meeting in the
12 working group anyway for at least five years that we can
13 think of. So what we're asking for is that you at one
14 point have a draft that is you're kind of final draft.

15 One of the concerns I have is I looked back
16 through my files, and just this year there are six
17 different drafts of the tiered regs, starting in January
18 to date. That's one every 60 days. On our end that's a
19 lot to digest and a lot to work with. And there's always
20 a new surprise. And we understand that there's more
21 surprises coming up the with your next one.

22 That is an issue for us.

23 The other one -- the first request is to please
24 come up with a draft that is your draft that you're going
25 to take to the Board. I'm sure you'll do that.

1 The next is to allow a reasonable amount of time
2 for us stakeholders to meet with you and staff after the
3 draft is released. You had a draft that is it dated on
4 November 4th, and you had meetings on the 5th, 6th, and
5 7th of November. But then when we wanted to come and meet
6 with you -- some of us are in Fresno, Santa Ana, other
7 places. And being business people, operators, we can't
8 drop everything we're doing. We don't have a lobbyist
9 here in Sacramento to meet on our behalf. I thought that
10 was unfair that you had the meetings just a few days after
11 the draft was released. So we're asking a reasonable time
12 to meet with you and the opportunity to meet with you and
13 staff.

14 We would like you to also take a look at
15 incorporating some of our recommendations. One of them I
16 came back within the Board meeting with you a few months
17 ago on the definition of putrescibles, which I think is
18 very important clarifying what putrescibles mean. We gave
19 this -- I thought it was pretty good, we wrote it up after
20 consensus with a few of us and submitted it to you. I was
21 told by staff that, well, you don't want to incorporate it
22 in the draft because it would be too much work. You don't
23 want to make all those changes. I'm surprised to hear
24 that said because you're making changes about such
25 important things as the definition about residuals, but

1 something -- a clarification on putrescibles, that's too
2 much work, we'd have to go through the draft again. I
3 would request that when we submit something, that you'd
4 seriously consider what we are submitting to you.

5 Also to kind of look at one thing. And the
6 purpose of these tiered regs, as I mentioned before, I
7 believe is to place different types of facilities into two
8 different regulatory structure, whether there's a
9 notification tier or registration tier. But another thing
10 that I've always thought is the purpose of these regs is
11 to enable recycling, to support recycling, expand
12 recycling. And in doing so, rather than having such a
13 regulatory and enforcement type of approach, to look at it
14 with a vision that would be a little bit different: How
15 can you expand recycling? How can you come up with a
16 prescription for what would be a good CDI processing
17 facility and have that be the way to solve some of the
18 problems on some of the things that you saw up here, in
19 other words prescription for a good operation?

20 One of the things that struck me in the slides --
21 and I'll close with this -- in the slides today is we saw
22 all the bad players. We saw the bad scenario. Of the 19
23 places you visited did you have any slides of places that
24 were doing a good job? I'd like to see that and I'd like
25 to see a direction come from these tiered regs that showed

1 a facility how it might improve its operations in order to
2 be a good CDI facility whether it's small, medium or
3 large.

4 Thank you.

5 CHAIRPERSON PAPARIAN: Mr. Hammer.

6 MR. HAMMER: Members of the Board, my name's Mike
7 Hammer, and I'm with Looney Bins. We're a small and a
8 medium level C&D processor in the San Fernando Valley.
9 And I'm here to ask for your support to raise the tonnage
10 limits back up to 750 tons per day before you get a full
11 solid waste permit; and also to lengthen the
12 implementation period from 180 days for a full solid waste
13 permit to something longer, at least change it that you
14 have to initiate the procedure within that amount of time
15 but there's grace given to go through any CEQA process
16 that may be encountered along the ways.

17 In regard to the tonnage limit, you know, in
18 October of '98 the Board adopted an initial statement of
19 reasons that said it was to provide a streamlined and
20 simplified regulatory process for C&D facilities, with
21 statewide consistency, and protect public health and
22 safety. Those were some of the goals that the Board had
23 about these tiered regs. And I quote here, it said, "The
24 level of Waste Board review and oversight for these
25 operations and facilities is reduced from what is

1 currently required under full solid waste facility permit
2 to that provided under the lower tiers. Reduction of
3 regulatory oversight will encourage reuse and recycling of
4 construction and demolition debris."

5 I mean there was an acknowledgement when this
6 process got going, and even before this, but October of
7 '98, that a reduction in regulatory oversight for C&D
8 processors was one of the goals, and a further
9 acknowledgement that a reduction in oversight would result
10 in an increased reuse and recycling of this type of
11 debris, which is what everybody wants.

12 And yet four years later it seems like we're
13 departing from those fundamental principles and we're
14 going down a road that if it goes the full way is going to
15 require almost all of C&D processors to get full solid
16 waste permits, which was totally at the other end of the
17 spectrum of what was said with the initial statement of
18 reasons.

19 And, you know, we're conscious -- we want to
20 operate a very clean facility. We do. And we think it's
21 very important to protect public health and safety. But,
22 you know, over the past few months the tonnage limits have
23 gotten lower and there's arguments to reduce it even lower
24 before you get a full solid waste permit. There's no
25 evidence of the health and safety risks associated with

1 C&D debris. Now, there are risks with putrescibles, but
2 that's covered, one percent or less. There's risks with
3 people who abandon their facilities. But just when you
4 deal with good C&D operators there's no evidence.

5 I've asked the staff members for what evidence is
6 there of environmental and health risks with C&D debris.
7 The only response I got was that there was a study that
8 says anaerobic degradation of drywall results in sulfur
9 emission. But anaerobic degradation is without oxygen,
10 it's buried in the ground. We're not talking about it
11 sitting out to be processed. You're talking about a
12 permanent disposal in a landfill at that point.

13 And so to make the arguments time and time again
14 that there's these risks and increased risks and so we
15 should lower the tonnage limits because of that, but for
16 their not to be any scientific evidence to support it, to
17 me is like smoke and mirrors to say, "Well, there's a
18 risk, but we really don't have any documentation for it."

19 I firmly believe that the state minimum standards
20 that will apply whether you're in, you know, notification,
21 registration, or full solid waste are sufficient. You
22 have the one percent putrescible limits. And LEA's are
23 going to be visiting the site on a monthly basis, so
24 you'll have assurances there if somebody's not disposing
25 of the residual material. But I do believe that those

1 assurances are significant enough to protect the Board's
2 concerns with health and safety and to enable LEA's to
3 protect the public health and environment.

4 And, finally, again just to reiterate, if the
5 requirement is to get a full solid waste permit, everyone
6 I've talked to in the industry, nobody has completed it
7 within six months. Now, maybe there's some facilities up
8 here, but I haven't talked to anyone in L.A. that's been
9 able from start to finish get a full solid waste permit in
10 six months. And so, again, I would just urge the Board to
11 give a longer grace period for existing operations to
12 complete that process.

13 Thank you.

14 CHAIRPERSON PAPARIAN: Thank you.

15 Mr. Edgar.

16 (Thereupon an overhead presentation was
17 Presented as follows.)

18 MR. EDGAR: Chairman and Board Members, my name
19 is Evan Edgar with the California Refuse Removal Council.
20 You have a hand on my PowerPoint presentation. And we are
21 the C&D folks, we are the recyclers. We've been in the
22 program over 20 years as part of the infrastructure AB
23 939.

24 And what I have in front of us today is a fact
25 that we've been working on since 1997. I have an engineer

1 going to many workshops.

2 In 1999 the OAL clock ran out, I had to start
3 again. In year 2001, we did attempt to put the C&D waste
4 into the transfer processing regulations. Didn't you
5 believe in that? A lot of the LEA believed in that, so we
6 started that attempt in 2001. But unfortunately you
7 decided to take a path of doing tiered permitting for C&D
8 waste.

9 (Thereupon an overhead presentation was
10 Presented as follows.)

11 --o0o--

12 MR. EDGAR: Of course the primary reason is
13 public health and safety.

14 The secondary reason has been to encourage AB 939
15 and recycling. We believe that we've been doing that
16 since the tiered permitting program on other facilities,
17 and we believe that with the transfer processing regs we
18 could achieve that.

19 The current regulatory package is inadequate for
20 three reasons. I want to talk about the 500-tons-a-day
21 threshold, the definition, and the residual percentage.

22 --o0o--

23 MR. EDGAR: With public health and safety, we
24 believe that there's appropriate health and safety
25 standards in the TPR regulations in order to minimize the

1 risk. We also believe that the goal of the Waste Board of
2 course is AB 939 goal achievement. Many of the facilities
3 depend upon our MRF's in order to comply with AB 939. We
4 are fully permitted, and C&D is a part of it.

5 We have a really good disposal reporting system
6 as part of SB 2202 report that we report the tonnages to
7 the cities who get credit for diversion.

8 We believe that to achieve diversion you may not
9 deregulate an entire industry. We believe that
10 appropriate level of regulation is achieving sustainable
11 programs at sustainable facilities that don't come and go,
12 but are here for the long term with sustainable tons.

13 --o0o--

14 MR. EDGAR: There's been some signals from SB
15 1374 last year that have you talked about the amount of
16 recycling for C&D waste. With a 50 to 75 percent recovery
17 rate, that's a 25 to 50 percent residual rate. There are
18 some signals out there that C&D should have a higher
19 residual rate than we saw on the 10 percent residual rate
20 that is in the regulatory package.

21 --o0o--

22 MR. EDGAR: What is C&D waste? Well we're
23 talking about the commingled mixed C&D. And there are
24 evidence by DTSC that this type of wastestream does have
25 all types of hazardous wastes in it. There's a whole list

1 of it.

2 --o0o--

3 MR. EDGAR: And as far as the processing, there's
4 quite intensive processing as part of the C&D waste.
5 There's a lot of machinery out there, a lot of movement
6 going out there with asbestos, with heavy metals. We ran
7 across a lot of it. A lot of our facilities are fully
8 permitted MERF and transfer stations. We do have
9 household and hazardous collection facilities inspected by
10 the LEA. We have programs for universal waste. We have
11 programs for electronic waste. We have programs for PCB's
12 that come out of C&D. We have the programs and the
13 infrastructure in order to manage the public health and
14 safety risks as part of the C&D waste stream.

15 --o0o--

16 MR. EDGAR: This is a load of inert materials
17 It's 100 ton a day. We call that Type A inert. And
18 that's a whole different regulatory path. So that is not
19 the mixed C&D we're talking about. And there's different
20 threshold values for that. What we are talking about is
21 mixed C&D.

22 --o0o--

23 MR. EDGAR: There was a Waste Board report back
24 in 1992 that talked about those different conversion
25 factors. For loose MSW it was about 272 pounds per cubic

1 yard; compacted gets 400 to 500 pounds per cubic yard.

2 For C&D with no inert, 330 to 360 pounds per cubic yard.

3 So the conclusion is that mixed C&D is not
4 significantly heavier than MSW. We you take away the Type
5 A inerts, that's a whole different situation. But mixed
6 C&D on a relative basis it's pretty close to MSW.

7 --o0o--

8 MR. EDGAR: As part of initial statement of
9 reasons back in May '02, it's listed the fact that there
10 are equivalent threats to the public health and safety due
11 to the processing of MSW and C&D-like materials. So we do
12 have the initial statement of reasons justifying the fact
13 that there are public health and safety risks that need to
14 be managed in a similar manner.

15 --o0o--

16 MR. EDGAR: This is a model facility. Mr.
17 Ingalls was talking about where are the good facilities
18 out there. Well, I represent a lot of those good
19 facilities. I'm a permit engineer. I write the transfer
20 processing reports. And we represent as part of the CRRC
21 membership the policies surrounding C&D facilities that
22 are good facilities.

23 What you see in front of you is 100 tons a day of
24 mixed C&D. That's 22 truckloads per day, about 4.5 tons
25 per load. That's Zanker Road Landfill right there. They

1 do get up over 90 percent recycling rate. So by having a
2 regulatory structure of a full permit which you've had
3 since 1997, we're still able to get 90 percent. We do it
4 everyday.

5 --o0o--

6 MR. EDGAR: This is a facility of 300 tons per
7 day. Now, at 100 a day, that was recommendation by staff
8 back in November '01 to get a full permit. By December
9 '01 Staff was recommending 300 ton a day of mixed C&D to
10 get a full permit.

11 If you look at the pile there at 300 tons a day,
12 that's 67 truckloads per day. At the time staff was
13 talking about having C&D being three times heavier than
14 MSW, to go from 100 to 300. Well, on a relative basis
15 it's not that much heavier once you move the inerts. What
16 you have there is mixed C&D.

17 --o0o--

18 MR. EDGAR: The next facility's the Zanker Road
19 Landfill. It took them two days to do this, to actually
20 measure all the tons across the scales and put the mixed
21 C&D out there in order to determine what is 500 tons a
22 day. Basically 120 truckloads per day.

23 And then by that time the 500 tons a day was
24 January of '02 the Waste Board staff was recommending a
25 full permit for 500 tons a day.

1 If you went up to 750 tons per day, that would be
2 180 trucks per day. And that would drive the LEA looney
3 trying to enforce that.

4 --o0o--

5 MR. EDGAR: Now, what's the difference between
6 tiered permits? If you look at the registration permit,
7 there's no site-specific permit condition. The LEA have
8 no latitude. There is no secret requirement of all these
9 trucks, all this activity. May or may not report
10 residual.

11 With a full permit, you have site-specific
12 conditions for a site-specific wastestream, CEQA is a
13 must, and the Waste Board staff has oversight.

14 --o0o--

15 MR. EDGAR: The conclusion is we believe 100 tons
16 per day is defensible. Waste Board staff recommended in
17 November '01. There's evidence in the record from DTSC
18 and initial statement of reasons that says that 100 tons a
19 day would require a full permit, and we would recommend
20 that.

21 --o0o--

22 MR. EDGAR: I want to talk quickly about some
23 evidence what is what with regards to what's out there.
24 And in all the different examples of when C&D processor
25 should go back, when they don't have an infrastructure,

1 they don't have support in order to do it right. And
2 there's a whole set of case studies I was going to go
3 through. I'll give the dates and money which Waste Board
4 spent to clean up some of these facilities.

5 --o0o--

6 MR. EDGAR: 1998, mobile debris box in San
7 Francisco, \$300,000 to clean up the C&D processor.

8 1999, \$348,000, San Diego County Waste Board to
9 clean up the Tijuana River Valley.

10 --o0o--

11 MR. EDGAR: Fresno County, 1999.

12 --o0o--

13 MR. EDGAR: Tulare County, upcoming in Year 2000.

14 --o0o--

15 MR. EDGAR: Of course, what about Kern County?
16 People down there -- I think staff saw a few sites down
17 there.

18 --o0o--

19 MR. EDGAR: So that's a price of less control.

20 The whole issue of waste and debris, I think
21 staff did a good job explaining that in opening testimony
22 about the Public Resources Code. We'll support staff's
23 recommendation today.

24 --o0o--

25 MR. EDGAR: Option B2 on residual. The SB 1374

1 did set a goal of 50 to 75 percent recycling, which is
2 about 25 percent to 50 percent residual. With no cap on
3 residual and one percent putrescible you get up to 99
4 percent dry rubbish being processed or transferred. Thus
5 that's why beginning of 2001 we recommended just to put
6 the whole definition of C&D waste into existing transfer
7 processing regs, to use that as their model in order to
8 regulate C&D. We went down this path instead, but we
9 believe that without some type of recycling requirement or
10 residual requirement on the C&D facilities, it will be
11 tough to comply with 1374. And basically there will be a
12 lot of different -- transfer stations out there. They
13 could act like a transfer station with no recovery and
14 just a transfer of C&D and like material.

15 As in the case study, under the existing
16 scenario, with a registration solid waste permit of 500 a
17 day and 50 percent recovery, you can have 250 tons per day
18 of residual. MSW is 15-tons-per-day permit requirement to
19 give out a registration permit. So that's 16 times the
20 factor.

21 And meanwhile the statement of reasons talk about
22 the equivalent risk between MSW and C&D.

23 --o0o--

24 MR. EDGAR: In conclusion, CRRC will support 100
25 tons per day for a full permit. We would support the

1 definition of "waste." And we will support a low residual
2 amount.

3 We would also support the recommendation by Waste
4 Board members to having us come back in December with a
5 15-day and another 15-day if necessary.

6 Thank you. I'm available for any questions that
7 you have.

8 CHAIRPERSON PAPARIAN: Any questions for Mr.
9 Edgar?

10 I have a couple questions, Mr. Edgar.

11 Once somebody has a registration permit, which is
12 a full permit, do you believe that there's a difference in
13 how they would be regulated from that point forward?
14 They've got a registration permit or they've got a full
15 permit.

16 MR. EDGAR: Oh, there's a major difference. A
17 registration permit's different than a full permit. There
18 are permitted solid waste facilities. But registration is
19 issued by local enforcement agency. There is no need to
20 have CEQA in many cases. And there are a set of state
21 minimum standards they got to comply with. But there are
22 similar state minimum standards.

23 With regards to having a full permit, that would
24 be concurred with by the Waste Board and you would have an
25 LEA and Waste Board oversight.

1 CHAIRPERSON PAPARIAN: I understand that. But
2 are you suggesting that then a registration permit would
3 not have the full LEA oversight?

4 MR. EDGAR: Wouldn't have the Waste Board
5 oversight. It would have the LEA oversight.

6 CHAIRPERSON PAPARIAN: Is that -- I see Mr. de
7 Bie shaking his head on that.

8 MR. de Bie: I guess it depends on what you
9 define as oversight. Once the permit's been issued there
10 is no difference between a site operating under a full
11 permit or a registration permit in terms of LEA overview
12 or Waste Board overview. It's the same.

13 CHAIRPERSON PAPARIAN: Okay. So the Waste Board
14 would provide the same level of oversight with a
15 registration permit as there is with a full permit?

16 MR. de Bie: Yes.

17 CHAIRPERSON PAPARIAN: Once it's issued?

18 MR. de Bie: Once it's issued.

19 CHAIRPERSON PAPARIAN: Let me ask you something
20 else. One of the fellows who testified before you
21 suggested it would be very difficult to get a full permit
22 in a relatively short period of time. I think he was
23 talking about the six months. And you've been around,
24 gotten a lot of permits for clients and so forth. What
25 kind of range do you see in terms of, from the time you

1 decide to get a permit, going through all the local
2 processes, going through the CEQA processes, going through
3 the Board processes in being able to get that permit, what
4 do you see as kind of a range of timing there?

5 MR. EDGAR: Good question. Comes back to local
6 land use and local land use decisions. And I don't feel
7 we have a stigma, getting a full permit and not having --
8 stigmatized, being a good recycler, being a good neighbor,
9 having a good communication with neighbors. So having the
10 CUP CEQA process done correct locally -- and that's where
11 this permit -- permitting of the Waste Board is it ensures
12 that local CEQA's done. But on a local level it could be
13 anywhere from six to nine months just to get through the
14 CUP CEQA in different cases. And you've got 100 tons a
15 day, be less than 500 tons a day. But once the LEA
16 handles the permit, if a local level -- for a registration
17 permit, 30 days for the LEA to issue a registration
18 permit. To go through the full Board you have to go
19 through the entire full Board structure of another 150
20 plus days.

21 CHAIRPERSON PAPARIAN: Okay. Let me just --
22 let's just take the situation of a full permit. Say, we
23 would have a 501 ton a day facility and you had to get a
24 full permit. From the point at which you decide, "Oh, I'd
25 better hire the consultants I need to hire. I better do

1 this, I better to do that," just from your experience,
2 what's the range from that initial decision that you're
3 going to get a full permit to the time you actually get it
4 in hand?

5 MR. EDGAR: It could be a year and a half to two
6 years. With the difference between registration and full
7 permit being -- 150 minus 30 days -- being 120 days is the
8 difference of times, because you still got -- you should
9 have the same thing locally, CUP CEQA and hopefully people
10 will do that. But under registration permits there's no
11 assurance that that is occurring.

12 CHAIRPERSON PAPARIAN: Okay. So in a full permit
13 you have maybe a two-year time period?

14 MR. EDGAR: Correct.

15 CHAIRPERSON PAPARIAN: Now, to be fair probably
16 what we should do is give -- if we went to 100 ton a day
17 we should give -- we should grandfather in those
18 facilities for that period of time it would take them to
19 get a full permit. But let me offer another suggestion
20 for you to consider -- for others to consider.

21 What if we went forward with these regulations at
22 500 tons a day, 100 to 500 for a registration permit, but
23 phased out the registration permit in, say, three or four
24 years, so within three or four years everybody would have
25 to get their full permit; but rather than just

1 grandfathering people in, they'd have to go out and get
2 that registration permit and have that in hand, which
3 would allow the full enforcement authority of the Board
4 and the LEA's during that time period which they were
5 pursuing a full permit?

6 MR. EDGAR: Over the years we discussed that, Mr.
7 Paparian, with other regulatory package of composting and
8 contaminated soils, this type of concept or path and -- to
9 been passed. And what was done in those cases was not to
10 change the regulatory structure, but to have a longer
11 lead-in time to get the permit. Once the regulations are
12 adopted, everybody does the state minimum standards.
13 They're effective. We heard that early today about the
14 compost regs, that when the compost regs are passed, the
15 state minimum standards should kick in at that point.
16 However, to get the permit for composting, small sales
17 composting, less than a thousand cubic yards, or in this
18 case given the permit for 100 tons a day for a full
19 permit, there could be a lead-in time of then 12 months as
20 part of the composting packages so there's some time to
21 build in to give a grace period necessary to go through
22 this CEQA and the full permitting practice. But the same
23 time follow the state minimum standards when they are
24 adopted by the Waste Board. And that's critical.

25 CHAIRPERSON PAPARIAN: But there seems to be a

1 kind -- I mean what you've suggested in your presentation
2 is that oversight by the LEA's and Waste Board staff would
3 be a good thing. And what I'm suggesting is if we were to
4 allow a registration permit during the time in which the
5 operators were pursuing a fuel permit, that in fact would
6 give us additional oversight as opposed to, you know, some
7 sort of a grandfathering.

8 MR. EDGAR: And we tried that with a compost
9 package and it worked, so we'll stick with the 100 tons a
10 day for a full permit with a more lead-in time in order to
11 get the full permit as built into the regulatory package.

12 CHAIRPERSON PAPARIAN: Right. And what I'm
13 suggesting is during that lead-in time, rather than leave
14 the operators in limbo, we'd actually bring them into the
15 regulatory tier with a registration permit.

16 MR. EDGAR: I don't think they'll be in limbo
17 because they'll be complying with state minimum standards.
18 So I think the state minimum standards will be in place
19 and effective so that at least operating-wise they'll be
20 following the state minimum standards.

21 CHAIRPERSON PAPARIAN: But who would be enforcing
22 those?

23 MR. EDGAR: The LEA.

24 CHAIRPERSON PAPARIAN: But they wouldn't have a
25 permit.

1 MR. EDGAR: Correct.

2 CHAIRPERSON PAPARIAN: So how would they be
3 enforcing, say, state minimum standards without a permit?

4 MR. EDGAR: Same way this morning your staff
5 discussed it with regards to the thousand cubic yard
6 compost facility about having the ability to have a state
7 minimum standards effective now and have the LEA work with
8 the operator on enforcing those on an interim.

9 CHAIRPERSON PAPARIAN: Okay. So if we had -- if
10 we took your statement that it would be two years --

11 MR. EDGAR: Up to two years.

12 CHAIRPERSON PAPARIAN: -- up to two years, and
13 maybe we even tacked on two and a half or three years, but
14 whatever the time period, during that time period you're
15 suggesting that the facilities could operate without a
16 permit but meeting state minimum standards?

17 MR. EDGAR: And that's been a common practice of
18 the Waste Board on chipping and grinding regulations when
19 they were adopted in 1997. And so that's been a common
20 practice of the Waste Board on different regulatory
21 packages where a state minimum standards have been
22 enforced until the permits have been obtained.

23 CHAIRPERSON PAPARIAN: Okay. Then what I'd
24 suggest for you and your clients to consider is what about
25 is it going one step further in having a registration

1 permit during that time period; but the registration
2 permit process would go away at some time certain in the
3 future; and that, you know, either you get the full permit
4 at that point or you're unpermitted.

5 COMMITTEE MEMBER JONES: Can I ask you a
6 question, Mr. Paparian? Because I think I know where
7 you're going.

8 Are you saying that if we dropped the permit
9 tonnage to 100 but in that timeframe we said put them in a
10 registration tier and then they start going through the
11 process?

12 CHAIRPERSON PAPARIAN: Yeah. But give a fairly
13 long period of time to get the full permit. I think what
14 I've heard from visiting some of these facilities and
15 talking to these folks, they don't know how to even begin
16 getting the full permit. And they're fearful, and
17 rightfully fearful, of it taking a long time to get it on
18 top of all the other things they're trying to do to stay
19 in business. So I'm suggesting you give them enough time
20 so that they can do it and do it right and not, you know,
21 kill themselves in the process.

22 COMMITTEE MEMBER JONES: Understood. But they
23 would have -- I think one of the things we talked about
24 one time, I forget what the package was, was that they'd
25 have so long to at least start the process. I mean we

1 don't want them just languishing. But if you're saying as
2 a compromise -- and I'm not trying to put words -- I'm
3 trying to understand -- if we say -- let me backup one
4 step.

5 The one thing that Evan didn't say, the
6 difference between a registration and a full permit is
7 that the registration in LEA has no opportunity to put on
8 conditions. And that's the key.

9 But if you're saying that for now we tell these,
10 whether it's 500 or whatever, that they get a registration
11 permit, but it's our intent that that level is 100 tons,
12 and then they start -- they can operate under
13 registration -- they can get their registration permit
14 now, but then they start immediately to go through the
15 process to get a full permit? And I'm not trying to put
16 words -- I'm just trying to figure out --

17 CHAIRPERSON PAPARIAN: No, I'm trying to toss it
18 out there as a suggestion. Maybe you give them six or
19 nine months to start the process to get the permit, and
20 then give them three, three and a half years to actually
21 have the permit in hand.

22 COMMITTEE MEMBER JONES: Okay. But ultimately
23 with a goal of having a 100 tons as the number?

24 CHAIRPERSON PAPARIAN: Potentially, yeah. I want
25 to throw it out there for discussion.

1 COMMITTEE MEMBER JONES: Potentially. Well,
2 potentially I like your idea if it gets us -- you know,
3 because I think that's a way to move us. I mean, you
4 know, one of the things that was critical, and it didn't
5 really come out in the staff report, but it did in a
6 discussion that I had, was that one of the tours that
7 staff went to a, quote-unquote, C&D facility with an LEA,
8 the LEA actually asked staff, "Is this what you guys are
9 considering C&D?" And our staff said, No." And they said,
10 "Good, because we consider this garbage." And that was
11 one of the reasons that they're going down this road.

12 So I think that, you know -- and I'm sorry that
13 that didn't get more fully explained as part of their
14 presentation, because it was -- It's got a huge impact I
15 think on a lot of their thinking, was the fact that those
16 that say they're one thing, sometimes they're something
17 else.

18 And there's one other piece that's scary.
19 Everything from like San Luis Obispo down calls garbage
20 trash, rubbish, and then wet stuff, right? -- wet garbage.
21 Everybody up north calls it garbage. So sometimes when
22 we've got people talking to us about, you know, it's just
23 C&D, they may be lumping in the fact that it's what they
24 consider trash and rubbish but where we consider it as
25 garbage.

1 So I just throw that out because there is a
2 definitional difference between the state, you know. And
3 I think it's creating a lot of confusion in this reg
4 package.

5 But I do like your idea if we're going to end up
6 at 100 tons.

7 CHAIRPERSON PAPARIAN: Any else for, Mr. Edgar?

8 Okay. I see we have an order here. Mr. Astor is
9 number two on the four-person Edgar presentation.

10 MR. ASTOR: Thank you, Mr. Chairman and Members.
11 Kelly Astor also for the CRRC.

12 First thing I'd like to do today is commend staff
13 for what appears to be a change of heart in terms of the
14 definitional issue, as I've shared with many of you
15 privately of the three or four things we have prioritized
16 as being important to our industry and to our association.
17 The blended definition is, first and foremost, a concern.
18 So if your inclination is to follow what appears to be a
19 new staff direction and eliminate the use of the term
20 "debris," that saves me about 10 minutes of a very
21 compelling legal argument that I would have made and have
22 already bored Mr. Bledsoe with relative to the impacts on
23 franchising, the fact that there just is a giant ripple
24 effect when we start to blur those lines.

25 As long as we all can concede that we continue to

1 talk only about material that is truly solid waste, I am
2 pleased.

3 I will, however, leak into that for just the
4 following comment. It matters not that I as a generator
5 intend for my material to get recycled. It also doesn't
6 matter that it may be destined for recycling. In the eyes
7 of the law it's very clear: Fee for service recycling is
8 solid waste handling. If you're being charged a fee on
9 this material, and that's for transportation, collection,
10 and processing, I would maintain, you're a solid waste
11 handler.

12 But if we've cured that problem or appear that
13 we're on the path to curing that problem, I will move on
14 to other issues.

15 The second thing I'd like to say is that
16 sometimes the industry's position gets mischaracterized.
17 And I want to make certain that we understand the
18 following point: Nobody of the group that Mr. Edgar or I
19 represent is arguing against more C&D recycling. Quite
20 the contrary. As people have committed to delivering
21 certain diversion results to our cities, we are delighted
22 for all the recycling and diversion that can occurring.

23 Our concern is the deregulating our industry
24 along the way. And our concern is that we don't -- we
25 haven't seen a case sustained for changing the rules to

1 make it easier. Our members, by and large, that are
2 engaged in this activity have secured the permits
3 necessary to do that. All we're saying is that people
4 that don't yet have them that want to get into this
5 business ought to get the permit. We're not saying that
6 they shouldn't do it.

7 So that next takes you to this barriers-to-entry
8 argument, which we think is all wet. The fact of the
9 matter is -- and I've talked to dozens of my members who
10 have gone through the permit process -- the toughest thing
11 to do, the thing that may or may not trigger CEQA is not
12 the Waste Board permit; it's the land use decision-making
13 locally.

14 Once you've done all that, the Waste Board
15 permit, yes, it will take time, and it can add delay; but
16 ideally these things are being pursued in concert rather
17 than successively. And the fact that it may be difficult
18 to get isn't a case for not having to get one. You either
19 get one or don't get one based on the kind of operation
20 you're in, the kind of material you're handling. Well, we
21 maintain you're handling solid waste. And I think you saw
22 an excellent slide presentation by Mr. Edgar which shows
23 what 500 tons per day of solid waste looks like, mixed C&D
24 with solid waste. If that doesn't merit a full blown
25 permit, I don't know what does.

1 Now, the idea there's a whole bunch of recyclers
2 out there that would go into business only if they could
3 avoid this permit thing but thus far they haven't found
4 the energy, time or resources to do it, I just don't buy.
5 That offends logic and good common sense.

6 Five hundred tons per day is a lot of material to
7 manage. If you're going to manage that on a daily basis
8 and process it, without storing untold quantities of it,
9 you're going to invest in a lot of land either through a
10 lease or a purchase, you're going to invest in a lot of
11 equipment to process that material. And that involves the
12 expenditure of millions of dollars. Now, how anybody with
13 a straight face can say, "I'm big enough that I can spend
14 all the money to do that, but I'm too small to go get a
15 Waste Board permit," and not be disingenuous, I don't get
16 that.

17 If they want to get into it, they can get into.
18 Let them. Let them play by the rules that were there; not
19 to sustain a competitive advantage for us. Let them play
20 by the rules that were written to protect the environment
21 in the first place. As you continue to manage larger
22 quantities of material, the environmental risk grows.
23 Staff's now seen that. Rather than looking outside the
24 box, they're thinking and looking inside the box. They're
25 seeing what's there. I'm delighted. That's very real

1 progress. And I mean it when I say I commend them.

2 But there's more to do here. A hundred tons per
3 day ought to be the standard, for the reasons I've
4 advanced.

5 And, lastly, our third point, is this residual
6 par test. Well, ladies and gentlemen, if you're operating
7 a facility taking in hundreds of tons per day and you
8 don't have a par test on the end, you're operating a
9 transfer station. You can't cloak yourself in this guise
10 of recycling and say, "I'm going to do all these good
11 things, but I don't want to be held accountable" at the
12 end of the day or the week or on the tail-end with
13 application of a residual par test. The design and
14 purpose of that kind of test is to ensure that you're
15 doing what you said you were going to do. And if you're
16 allowed to take in even 100 tons per day, I submit and
17 CRRC submits that the par test should still apply.

18 With that, although I'm enamored with my own
19 voice, I think I'll be redundant if I say much more. I'm
20 certainly available for questions from Mr. Cannella or
21 anyone else. And we thank you very much for this
22 opportunity.

23 CHAIRPERSON PAPARIAN: Any questions?

24 We're enamored by your voice too. And, Kelly,
25 I'll make sure and call on you as I need more

1 environmental help on some of the things I propose in the
2 future.

3 MR. ASTOR: I'm your man.

4 CHAIRPERSON PAPARIAN: Okay. Steve South from
5 Edco.

6 Before you get going, Mr. South, I'm just looking
7 at the clock here. Maybe we ought to take a quick break
8 now and come back in 10 minutes. And come back in 10
9 minutes.

10 MR. SOUTH: Mr. Chairman, I would support that.
11 And I just want to add before we do take a break that I
12 too am enamored with Mr. Astor's voice. And we'll
13 continue that dialogue outside.

14 CHAIRPERSON PAPARIAN: We'll take a straw poll
15 during the break.

16 MR. SOUTH: Thank you, sir.

17 CHAIRPERSON PAPARIAN: Thank you.

18 (Thereupon a recess was taken.)

19 CHAIRPERSON PAPARIAN: We'll get started. Mr.
20 Jones will be joining us in a minute.

21 Is Mr. South in the room or is he out sides?

22 There he is.

23 MR. SOUTH: Thank you, Mr. Chair, Members of the
24 Committee. Steve South. I'm the Chief Operating officer,
25 family-owned and operated Edco Disposal Corporation.

1 Pleased to be appearing before you today.

2 I want to also mention that obviously we are a
3 C&D hauler. We're one of the largest C&D haulers that I'm
4 aware of, and as a family-owned company in California.

5 Couple of quick points. You've heard a lot of
6 discussion today. I want to be very clear though on what
7 our position is today before you.

8 We support 100-per-day maximum before a solid
9 waste facility is invoked. We support a 10 percent
10 residue. There should be a residue cap in order to the
11 define the parameters of these permits. We support a 1
12 percent putrescible limit on the facilities. And we
13 support staff's position on changing the terminology to
14 "waste" from "debris."

15 So with those things in mind, a little bit of
16 background that we would offer you. We've operated one of
17 these such facilities. We operate a 200-ton-per-day
18 nonputrescible facility that operated under a solid waste
19 facility permit. It was actually -- the permit was
20 overseen by one of the staff members here in the room.

21 As a nonputrescible facility it was subject to a
22 wide variety of interpretations. It's a very, very
23 difficult, very challenging environment in which to
24 operate. And it was absolutely critical that obviously
25 there be a load-check program and a variety of other

1 issues associated with public health and safety involved
2 to protect the health and welfare of the community.

3 But having said that, I would also note that that
4 facility operated with scales, for instance. And in a
5 state that has spent millions of dollars in resources
6 investing in cost-effective diversion programs to achieve
7 the results that it has, my understanding of current
8 regulations is that scales would not be required for these
9 facilities. Something that I find pretty interesting
10 since everybody's spending millions of dollars right now
11 in consultants to do base-year analysis because a lot of
12 times weights weren't actually used and K rates were used.
13 So I find that to be something that's of particular
14 interest.

15 So I'm curious as to how we're expanding
16 recycling without expanding the reporting that will
17 justify the results of the process.

18 The other thing I would draw to your attention is
19 that I myself am actually a member of the Local
20 Enforcement Agency as a hearing panel member. I've served
21 for two different agencies, currently under appointment
22 from the Mayor of San Diego for the LEA hearing panel
23 there. And I can tell that you that this is putting the
24 LEA's in a very, very difficult and challenging position
25 without clear definitions on residue. I strongly urge

1 your consideration of a 10-percent residue as well as
2 100-ton-per-day permit.

3 And I appreciate the opportunity to comment. And
4 thank you for your time.

5 CHAIRPERSON PAPARIAN: Thank you very much.

6 Any questions?

7 Okay. Before we get to Mr. Tkaczyk, I should
8 call for ex partes.

9 Mr. Cannella.

10 COMMITTEE MEMBER CANNELLA: I'm up to date.

11 CHAIRPERSON PAPARIAN: Mr. Medina.

12 COMMITTEE MEMBER MEDINA: Up to date.

13 CHAIRPERSON PAPARIAN: Mr. Jones.

14 COMMITTEE MEMBER JONES: Judy Ware and Kelly
15 Astor and Stan Tkaczyk and Victoria Tobias.

16 CHAIRPERSON PAPARIAN: And I spoke with Mike
17 Hammer of Looney Bins during the break.

18 Mr. Tkaczyk.

19 MR. TKACZYK: Mr. Chairman, Members of the Board,
20 I'm Stan Tkaczyk, Rainbow Disposal President.

21 Last time I was here was about 22 years ago when
22 I was applying for my transfer station permit. We are in
23 Huntington Beach, California. It was a 750-ton-a-day
24 facility.

25 The reason we went for that because at that time

1 100 tons was the cutoff, and I think still is, for a small
2 volume and large volume all transfer station. The
3 facility was approved. And I stand in front of you -- I
4 heard a lot of comments earlier today about people that
5 had a long history of problems. We have a long history of
6 no problems. And we have a long history of compliance.

7 When we built that facility we applied for a
8 grant from the State Board, and were fortunate to receive
9 a grant for \$145,000 for recycling.

10 We built our recycling plant, put in the baler.
11 And there's a 5-year reporting process that we have to
12 follow during that time. And we reported to your staff.
13 And at the end of 5 years -- I personally was handling
14 that reporting. The staff -- I said we need to complete
15 this process. And they said, "You know, we've never done
16 this before. No one has ever gone from the beginning of
17 the 5 years to the end. Usually they go out of business
18 or they just leave and the money's gone."

19 We have a longstanding reputation in the
20 industry. We're here. We're recyclers. We've been
21 recycling for over 22, 23 years. We took the grant money
22 from the state, we put it to work, we showed you that we
23 did our job. We want a continued level playing field.
24 What the Board has in front of it now or in front of us
25 are possibilities of changing the playing field that we've

1 been working with for many years. The Board could change
2 the rules and it can affect our business and our
3 investment.

4 We built a \$14 million MERF facility in the city
5 of Huntington Beach in 1990. I stand in front of you in
6 representing many cities, and every one of those cities
7 are in state compliance today, and we're very proud of
8 that.

9 I just want to close and say that everyone
10 that -- the three speakers that have spoke previous to me
11 I support 100 percent. And we hope that you will follow
12 the CRRC guidelines as they have been expressed to you.

13 Also, we did have some dialogue in regards to the
14 comments that were made about the tier system coming in.
15 And that certainly is something I think that has some --
16 has something to look at. And I think that may be
17 something we need to pursue and talk about.

18 I think the industry's concern with something
19 like that is that someone would be applying for permission
20 to go further than the three years, there would be a
21 whining session there possibly. But if there was an
22 absolutely comply or die, you're out of business, I think
23 that's what needs to be stated in something like that.
24 But we'd be really concerned that this would just be a
25 three-year opportunity for someone to play the Board and

1 to play the system.

2 Thank you.

3 CHAIRPERSON PAPARIAN: Okay. Thank you.

4 Joan Edwards.

5 Is Joan in the room?

6 There she is.

7 Joan Edwards, followed by Patrick Munoz, followed
8 by Jeff Kroeker, followed by Greg Pirie.

9 MS. EDWARDS: Thank you.

10 Boy, this is really a moving target. I too have
11 been testifying since the 1999 regulatory process that did
12 not get completed in time and started the ball rolling on
13 this one. And it does seem like every time you turn
14 around, there's something brand new that either hadn't
15 been discussed before or had been totally discounted by
16 staff or the majority of speakers on a given day.

17 I have basically changed my presentation. I'm
18 going to do this in a fairly extemporaneous manner because
19 I'm going to react mostly to what has been said so far.

20 Four issues:

21 The easiest one to me is the 180 days. I too say
22 I don't know anybody who's ever gotten a permit in 180
23 days. And in Los Angeles you could bow down and praise
24 Ala if you get it in less than two and a half to three
25 years. Los Angeles is impossible.

1 So, please, something has to be done about that.
2 I believe the last time this was discussed the first time
3 around there was an impediment. Legal said there was some
4 sort of impediment to the Board actually granting more
5 time. And I'm not sure what it was. But something has to
6 be found, whether it's Board Member Paparian's idea,
7 something has to be found to deal with that issue.

8 The second issue is the issue of tonnage. I
9 don't know how we got back -- I want to say I don't know
10 how we get back to 100 tons, especially since staff hasn't
11 recommended it yet. And almost all of the discussion
12 other than certain key solid waste industry players has
13 been to expand. But I think 100 tons is much too low. I
14 was certainly one of those who was going for even higher
15 numbers than the last one, but who felt we should
16 compromise. But I cannot believe 100 tons. It's
17 inconceivable to me.

18 What I'd like to do to illustrate is to talk
19 about the conversion factors that were presented to you on
20 screen.

21 They're not even the conversion factors that are
22 used by Board program staff now in their advice to cities
23 when they do their annual reports or ask for a revised
24 base year. Five hundred tons per cubic yard is the mixed
25 C&D number, and a minimum of 1,000 to 1200 is the inert

1 number, and 100 to 125 pounds per cubic yard is what most
2 cities use when they come in for a new base year for mixed
3 commercial refuse.

4 To illustrate, using Zanker, which was in the
5 same presentation: Four point five tons per load usually
6 coming in in 20 cubic yarders, most companies bill
7 estimating that you'll get around 4 tons -- 3 1/2 to 5.
8 And 4 tons in a 20 cubic yarder is 500 pounds per cubic
9 yard. So there is a big difference between municipal
10 general refuse and the conversion for C&D. It is far
11 heavier. And to the extent that heavier for the same
12 amount of space is a factor in your decision-making
13 process. I just want to point that out.

14 The 10 percent. I manage the C&D ordinances for
15 four cities and participate in the design or general
16 oversight through advice for three others. I go to
17 facilities on a regular basis and audit -- I have audited
18 at least six in the northern part of the State. Ten
19 percent -- it's very interesting that Zanker was given as
20 the example. I think Zanker is one of the best facilities
21 in the state, without question. If I were going to name
22 my top three, they'd be right up there.

23 But a 90 percent number is playing the game a
24 little bit, because that includes all the source-separated
25 inerts that come into their facility for processing in the

1 inert area. If you just look at where they process mixed
2 C&D, it's a lower number. It averages out for the whole
3 landfill facility, but it's a big number.

4 Community Recycling I'm sure would be on
5 anybody's top three list. They've got a floatation system
6 and every mechanical device you can imagine, and they
7 haven't topped 85 yet. They're a steady 85.

8 Now let's look at the others. What does Newby
9 Landfill do? They have a C&D processing facility. What
10 about Blue Line, that's been visited? What about Advanced
11 Waste Systems, a small company that was visited? You
12 haven't found any that had 90. I know that because I know
13 the facilities.

14 The only way you found them, the only way that
15 the previous speakers could be correct is if they are
16 facilities that have very high percentages of inerts. And
17 then of course the disproportionate weight will get you
18 over the hump. But if you're looking for new recycling,
19 inerts have always been recycled.

20 If you were looking for new recycling, you have
21 to focus on mixed debris. Mixed debris facilities don't
22 get to 90 percent yet. They are usually off-the-ground
23 facilities that are 25 to 40 percent or mechanical
24 systems. NorCal, it's 65. And they include some
25 source-separated material in that number because they say

1 they have to clean it up on the line. NorCal, a good
2 facility, expanding, they're at 65.

3 So, please, this 10 percent number, ask staff to
4 do their homework on the diversion rate, the residual
5 number, and to what extent was it influenced by
6 source-separated inerts or mixed inert debris. Because
7 you could always bring the truck and dump it and you get
8 your number up that way if you have a screen.

9 The last issue is perhaps the hardest for me.
10 And it's the issue of the definition. I was at the
11 Diamond Bar workshop with Kelly Astor, and both of us
12 commented on the definition at that time. I wasn't aware
13 that an issue had come up about the definition and I
14 listened to Kelly's, and I spoke after him. He
15 specifically -- and he may have other reasons, and I'm not
16 trying to speak for him on all of his reasons -- but at
17 the Diamond Bar he specifically said that the wording of
18 "debris" would hurt franchises, that it would be an open
19 door for haulers who were not allowed to enter a franchise
20 city to break the franchise and say, "Oh it's debris, not
21 solid waste. And a franchise hauler only has a franchise
22 for solid waste." C&D was excluded, which it frequently
23 is, as you know, in cities. You have a sole franchise or
24 a nonexclusive franchise, and then open competition for
25 C&D is quite common around the state.

1 So he expressed a concern -- he may have
2 others -- he expressed a concern that you could break a
3 franchise by using only the word "debris." I am not a
4 lawyer. I really cannot speak authoritatively on what
5 would happen if you went to Court. But I can say that if
6 he is correct, then what is the opposite of that? If you
7 change the definition only to "solid waste," do you open
8 the door for every franchise hauler who operates in a city
9 where he has the sole franchise for everything except C&D
10 to, say, kick those 20 recyclers out of town? Is that
11 what happens?

12 So I would like to see a definition that is a
13 compromise, that neither helps a franchise hauler, who is
14 not supposed to be touching C&D alone where it's supposed
15 to be open, kick the independents out of town -- I don't
16 want to break franchises. I do think his clients have a
17 right to their franchises. At the same time I don't want
18 to see cities that are open have a bunch of lawyers come
19 to town, that the independent recyclers can't afford,
20 saying, "Ah, ah, ah, now you can't be open competitive."

21 This is an issue. And it struck me -- while it
22 shocked me that Mark is now supporting the waste
23 definition -- it struck me that the reason that he gave
24 was far fewer sites out there, there are far fewer sites
25 out there that would benefit from the term "debris." He

1 didn't say the term "debris" is bad. He didn't say, "Oh,
2 I object to it because it's going to cause health
3 problems, environmental problems." He said far fewer --
4 then what's the big problem? Find a compromise language.
5 And I thought that legal staff had worked long and hard to
6 find a compromise. Maybe there's a better compromise.
7 But there should be a compromise that doesn't allow either
8 side of this equation to win over the other, because the
9 biggest issue is recycling and competition. For you it
10 should be maintain -- protect the environment, protect the
11 health of citizens, and boost recycling. It should not be
12 "Debris box business is the most lucrative game in town.
13 Control it and your profits go up." And that is what C&D
14 is mostly about, debris box business.

15 So it's not just the site. It's the people who
16 collect it.

17 Those are my key issues. It's clear that given
18 the direction of this, regardless whether it's a 30-day or
19 a 15-day, that the other side of this debate that thought
20 things had been worked out had better come out in force
21 because I'm very concerned about the future of recycling
22 of the C&D industry.

23 Thank you.

24 CHAIRPERSON PAPARIAN: Mr. Jones.

25 COMMITTEE MEMBER JONES: Ms. Edwards, just a

1 couple of things. Yard of paper, how much does it weigh?

2 MS. EDWARDS: I don't have your conversion.

3 COMMITTEE MEMBER JONES: 300 to 350 pounds.

4 MS. EDWARDS: Yard of paper is heavier, dense --

5 COMMITTEE MEMBER JONES: Understood.

6 The 100 to 125 pounds is for purposes --

7 MS. EDWARDS: -- for mixed.

8 COMMITTEE MEMBER JONES: -- of billing, for
9 setting a rate, not for what garbage weighs. It's for
10 purposes of setting a rate. And all of the base years
11 that came forward using 100 pounds have come under
12 scrutiny by this Board because they use a low number for
13 waste and a real number for collected recyclable and then
14 some other number for source reduction.

15 But that's -- you know, the 272 number that he
16 used is actually a number I've used my whole life because
17 it always works. When your livelihood depends on it, it
18 always works.

19 But just remember, yard of paper's 300 to 350
20 cubic yards. So they're not off that much, believe me.

21 Newby Island and Blue Line that you were talking
22 about are both fully permitted facilities.

23 MS. EDWARDS: Yes.

24 COMMITTEE MEMBER JONES: They're not working
25 under the guise of something they're not. They're fully

1 permitted facilities. So they can take in a stream that
2 is different than somebody that just considers himself a
3 C&D hauler.

4 MS. EDWARDS: They state that they are -- they
5 are facilities that direct C&D from whoever it comes from
6 to a particular area for sorting. The only point I was
7 making is that none of these guys, permitted or not, get
8 to 90 unless they have heavy, heavy percentages of inerts.
9 That's the only point I was making.

10 COMMITTEE MEMBER JONES: Oh, okay. Because --

11 MS. EDWARDS: The feasibility of a 90 percent
12 recycling rate as a standard for mixed C&D, you might as
13 well say nobody should have it, nobody should be called a
14 recycling facility because nobody would get there.

15 COMMITTEE MEMBER JONES: I know. But this
16 isn't -- these regs aren't about C&D recycling facilities.
17 These regs are about C&D transfer facilities. And there
18 is a huge difference. Because there is nothing in this
19 reg package that says anybody that's got one of these
20 facilities has to recycle one pound. They can bulk it and
21 take it directly to a landfill. And all we're talking
22 about here is how much garbage is in those loads. And,
23 you know, when we started this thing, when I was looking
24 at a higher number, it was because we had clearly defined
25 what it could be.

1 And then all the folks that said that they were
2 C&D recyclers couldn't live with that definition. So, you
3 know --

4 MS. EDWARDS: I would agree. If these are to be
5 considered simply for transfer of garbage and there's no
6 interest in recycling or focusing on encouraging more
7 recycling, then we might as well call them transfer
8 stations. You're probably right.

9 COMMITTEE MEMBER JONES: That's what these regs
10 are about. They have nothing to do with recycling,
11 because when we tried to put in the three-part test,
12 everybody objected. Nobody wanted it. So there's nothing
13 in these regs that say that even a pound has to be
14 recycled.

15 MS. EDWARDS: That's correct.

16 COMMITTEE MEMBER JONES: Okay. Thank you.

17 It's always good to see you, Joan.

18 CHAIRPERSON PAPARIAN: Thank you.

19 Patrick Munoz.

20 MR. MUNOZ: Good afternoon. Thank you. Patrick
21 Munoz on behalf of Madison Materials.

22 Let me just jump on to the point that was being
23 debated there at the end between Ms. Edwards and Mr.
24 Jones.

25 What we're trying to do is to take apples and

1 oranges and make them as best as we can be apples and
2 apples. And when I say "we," I don't mean me. I mean
3 your staff. You know, I said this before and I really
4 meant it, and I'm going to say it again, don't believe me,
5 don't believe a word I say. Don't believe Mr. Astor or
6 Mr. -- or any of the other folks. We're all biased. We
7 all have economic interests that we're pursuing. Believe
8 your staff. Look at your staff. They are unbiased on
9 this issue. Your staff said with a formula I'm too dumb
10 to figure out, frankly -- your staff said that it's apples
11 to apples when you're comparing the municipal solid waste
12 stream that's going into a MERF transfer station and
13 you're comparing the C&D waste stream and you're trying to
14 come up with regulations that create a level playing
15 field, that's apples to apples, if you use 750 tons per
16 day -- 750 tons, not 500, not 100 -- 750 tons per day of
17 mixed C&D as the standard for a registration tier. That's
18 what your staff said. I didn't say it. Your staff said
19 it.

20 They changed their mind, I believe probably
21 because of political pressure. This is all about
22 politics; we all know that.

23 But your staff said that, and they're not biased.
24 I think you need to believe your staff. When we talk
25 about a level playing field then, you know, does Mr.

1 Tkaczyk want to have a 10 percent requirement on the
2 recycling that's currently in his transfer station, is
3 that going to make it apples to apples again? Certainly
4 we're talking about different waste streams. Your staff,
5 not me, has pointed out that this waste stream is
6 different because it doesn't have the putrescible content
7 and it's different because it's heavier. Don't believe
8 me. Believe your staff. That's what they have said.

9 When you're talking apples to apples, 750 tons is
10 not out of the question. Certainly 100 tons, in my mind,
11 should be out of the question and, you know, reasonable
12 minds can differ. We would strongly urge 750 tons.

13 This question of residual I thought was already
14 answered by this Committee and the full Board. I'm
15 surprised we're spending so much time talking about it
16 again today. But to reiterate, as you probably surmised
17 from my comment a second ago, we do not believe that 10
18 percent residual as a requirement in all the various tiers
19 makes any sense. With the Keuhl Bill especially, people
20 are doing this to make money. This is a business
21 opportunity to create a C&D facility. We're not going to
22 make any money because we won't get any customers if we're
23 not doing 50 percent to 75 percent. I can tell you
24 Madison Materials has been open now for about two months.
25 And we're killing it. We think we're doing great. We're

1 at 78 1/2 percent averaged out from the day we opened
2 until a couple of days ago when I checked so I could
3 report that to you.

4 And we're killing it, with the top, most modern
5 equipment that we could figure out, with, you know,
6 brilliant engineers, guys a lot smarter than me that
7 figured out how to lay this stuff out and knew what they
8 were doing and put together a really neat, high-end,
9 top-of-the -- you know, high technology kind of facility.

10 We're at 78 1/2 percent. We hope to make that
11 better as we fine tune it and get better at this.

12 But, you know, a 10 percent diversion number or
13 requirement -- residual requirement rather is not
14 something that seems realistic, certainly not realistic to
15 companies like, you know, Looney Bins and lots of other
16 companies that are out there doing good work and getting
17 good recycling for this state. And Mr. Astor, our new
18 environmentalist, should be excited about that, not trying
19 to condemn these people, to put them out of business.

20 Our biggest issue though comes down to the
21 definition. Mr. Paparian I think made a comment earlier
22 that we were leaving the definition the same by using the
23 term "waste." And I was glad to see that Mr. Bledsoe
24 pointed out that that's not correct. We're using the same
25 word, the word "waste" instead of the word "debris" under

1 the current staff proposal, but we're not leaving the
2 definition the same. This issue, this issue of the
3 definition has nothing to do with recycling. This issue
4 has everything to do with franchise rights. Currently
5 there is a definition in the law of construction and
6 demolition waste. And there are contracts that exist and
7 permits that exist that people rely on that have a
8 definition that everybody understands. It's been in, you
9 know, the regs for a long time. And that definition is
10 very broad and very vague, frankly, but it's basically
11 anything that comes from construction or demolition.

12 I'm not suggesting to you, because I know you
13 won't accept it, that the definition of what should be
14 processed in these facilities should be anything from
15 construction.

16 What I am suggesting to you is a compromise
17 position that is fair and equitable and actually makes
18 sense and doesn't favor one side or the other. And I will
19 tell you, we kind of sat back and we saw the word
20 "debris," and we didn't complain because, frankly, it kind
21 of favored us. We thought, "Hey, that's kind of neat."
22 We don't have lots and lots of big franchises, and we saw
23 the loophole potential that Mr. Astor alluded to. I'll be
24 candid. We saw that. But can't tell you for sure that
25 he's correct in his analysis, nor can he, but we saw the

1 opportunity there.

2 So we didn't say anything when debris was being
3 touted around. Maybe we should have. Maybe we should
4 have come forward and said, "Hey, you know, that's unfair
5 because it favors us." We didn't. But what is being
6 proposed now favors the other side of the issue. And the
7 other side are the major haulers in this state who have
8 most of the franchises for hauling in this state where
9 they get everything, except in many cases, not all
10 cases -- in many cases an independent can't come in and
11 haul C&D waste -- but in many, many cases C&D waste is an
12 exception.

13 The definition that is being proposed right now
14 narrows what that definition is. For instance, a very
15 common practice is you go to a C&D site, there's a trailer
16 at the job site, you put a three-yard bin down at the
17 trailer for, you know, the waste that's coming out of the
18 trailer and whatever else is being generated on the site
19 and you put some rollofs. You pick up the rollofs when
20 they're full, you pick up the trailer once a week or twice
21 a week, if necessary. Under the current definition I
22 don't see clearly -- I mean maybe there's some arguments,
23 but it doesn't appear to me to be clear that that office
24 trailer is C&D waste anymore, even though the waste being
25 generated there is clearly generated as a direct result of

1 construction activities.

2 I've discussed this with your legal counsel. He
3 doesn't think that it's included. If his analysis is
4 correct, what that means is this: Under the definition
5 that you've created all the franchise haulers have a huge
6 leg up. They can go around and say, "Hey, you've got to
7 use us anyway. There's mandatory hauling in this city.
8 You got to pay for our solid waste service anyway. We'll
9 give you a discount for the overall package of the
10 rollofts and the bins."

11 My proposal is this. This is fair, I believe.
12 Leave the existing definition exactly the way it is, in
13 Section 1722515, and come up with a different definition.
14 Don't use the word "debris," that's become a bugaboo.
15 Call it acceptable waste, call it acceptable C&D for
16 processing, call it JuJuBees. I don't care what you call
17 it. But come up with a definition of what is acceptable
18 to be processed in these facilities. It's a subset of C&D
19 waste. Nothing changes in the franchise world of what C&D
20 is. The playing field stays the same. And you've now
21 come up with a different definition of what can be
22 processed in these facilities. And in the process of
23 coming up with that definition I would urge you to also
24 consider tweaking the existing definition a little bit to
25 allow for the kind of blueprint and other paperwork-type

1 waste being generated in an office trailer to be included
2 in C&D material. It fits that definition of C&D-like
3 material that the staff has created, but it's not a
4 hundred percent clear that that could be included. And
5 certainly your legal counsel seems to think that it would
6 not be included currently. I would urge you to include
7 that.

8 Moving on to some of the new language, just some
9 very brief comments on new language that the staff has
10 provided. I think the definition of "residual" really
11 needs to be looked at. It's too broad. Under the
12 existing definition anything that's been processed at a
13 C&D facility that's going to be processed further or
14 transferred somewhere else or sent for transformation is
15 considered residual. Well, you've created -- it was not
16 terribly meaningful before, but under this new definition
17 of C&D-like material the definition indicates there can't
18 be any putrescibles and you have to have zero residual.

19 Well, I can tell you right now if we get in a
20 load of mixed C&D, we get all that great concrete out of
21 it and we put it in a concrete container to send off to
22 somebody else to crush for further processing to turn it
23 into aggregate; so, you know, there's a perfect example of
24 that definition being a little bit too broad. The metal
25 that we pull out very often to get sent off to a metal

1 recycler for further processing to be turned into --
2 transformed into some other products.

3 It's a great start, but I think that some fine
4 tuning is needed on the definition of what residual is.

5 The recognition that there's a problem is already
6 there in the fact that it was indicated in the definition
7 that's something that's going to an engineered fill site
8 would not count as residual, recognizing that otherwise it
9 is being sent for further processing or what not. So we
10 just ask for some further consideration on that issue.

11 The -- I don't know whether you'd want to call it
12 grandfather language because I think that has a negative
13 connotation. But there's this new clause, and we're very
14 pleased to see it there. We were very worried about it
15 before. Mr. Edgar I think has already made the best
16 argument I could have made. A hundred eighty days just
17 isn't enough time. If we have to go through a CEQA
18 process again -- and we've already done it once -- but if
19 we have to go through it again, and unclear to us whether
20 we have to do that or not, and, you know, we're starting
21 to process an application so that we're ready to go
22 whenever these regulations are adopted, I'm just concerned
23 we couldn't do it in 180 days. Something needs to be done
24 to make it a little more flexible in terms of, you know,
25 meaningfully moving towards obtaining the appropriate

1 permit or tier or whatever. But some language along those
2 lines we would encourage you to direct staff to add in at
3 this time before it goes out for further comment.

4 And just one last comment I guess on the tonnage
5 limits that just kind of comes to mind. The purpose --
6 the authority that you have for regulating this waste
7 stream is health and safety. How can it be that there is
8 suddenly a huge health and safety concern for processing
9 material on top of the ground where it's being moved on
10 somewhere else after a period of time, 30 days max under
11 certain of the guidelines, or 15 days, depending how you
12 read these things, a year for storage -- but you've got
13 defined time limits where this stuff is on top of the
14 ground being processed, moved around, going to be used for
15 something else hopefully -- how can there be a health and
16 safety issue then that's making Mr. Jones feel like we
17 have to drop it all the way down to 100 tons, when there
18 is no health and safety problem apparently when the same
19 material is being put in the ground for forever without
20 any regulation under the proposed Tier 2 regulations.
21 That just doesn't make sense to me. I'm having a hard
22 time understanding that.

23 And I question why the Phase 2 regulations are
24 not moving forward at the same time as the Phase 1
25 regulations at this point. As I understand it, the

1 reasons for dividing them up in the past have gone away.
2 And we're seeing these odd arguments where -- and I don't
3 mean to pick on him -- but Mr. White will stand up here
4 and have comments similar to Mr. Astor's comments when
5 talking about the C&D processing facilities, but then in
6 meetings talking about the disposal sites, which they own,
7 is less concerned about where the material comes from.
8 Under the definition you're looking at today the
9 engineered fill site definition, as a for instance, is
10 something that really relates more to Phase 2. But if you
11 look at it carefully, it does something I've been arguing
12 about for months. It defines the material that can be
13 disposed permanently by material type, not by its source.
14 So it doesn't even have to be from a construction site. I
15 think that's the way it should be in Phase 1 as well.

16 But by moving the regulations together at
17 different times, we're getting kind of strange results, I
18 think. And I question, are there really these health and
19 safety questions. Has your staff done it's job? Have
20 they honestly told you that at 750 tons per day there is
21 no health and safety concerns so a registration tier's
22 okay?

23 You know, that's up to you to decide. They're
24 your objective staff.

25 Thank you.

1 CHAIRPERSON PAPARIAN: Thank you.

2 Okay. Jeff Kroeker, followed by Greg Pirie,
3 followed by Larry Sweetser.

4 MR. KROEKER: Good afternoon. My name is Jeff
5 Kroeker, Kroeker Demolition and Recycling in Fresno. And
6 I also represent the National Association of Demolition
7 Contractors on the Recycling Committee. And we have over
8 500 contractors throughout the United States and Canada.
9 And all of them have been watching since your definition
10 of debris has changed from -- to "waste" now. And there's
11 a lawsuit that I -- article that was in Waste News on
12 October 26th that the Florida hauler sues for the right to
13 collect C&D debris. There's another lawsuit going on
14 right now in New Mexico and another one in Las Vegas.

15 We are not garbagemen. And for you to classify
16 demolition debris as solid waste and fall under a
17 franchise agreement when we work throughout the state and
18 we run into different jurisdictions where we can't haul
19 our own debris that's generated off of a demolition site,
20 is kind of confusing, when it is still demolition debris
21 and there are reusable items in that process of tearing
22 down a building. Don't lump us in with the municipal
23 solid waste industry who obviously has an interest in this
24 because they want to haul it because they have a contract
25 in place or they're going to bid on a contract in the

1 future.

2 That's not what our demolition industry is after.

3 We're not after fighting the franchise haulers. That's
4 not what we want to do. We want to take the debris and
5 the concrete and the asphalt, which we recycle a hundred
6 percent of the concrete and the asphalt and a majority of
7 the debris that is generated from the building site.

8 As you saw, our yard was one of the slides that
9 Sean showed up on the screen. We invited SWANA to our
10 yard, our LEA, Mark has been to the yard there. We're
11 obviously making progress with different technologies.
12 And we have a marketplace. We actually sort the material,
13 grind it, and have a marketplace for it. Or we crush the
14 concrete and asphalt, and we have a marketplace for that.

15 So the idea of the LEA not being able to enforce
16 the rules with your tiered registration, I can't -- why
17 did they spend all these months coming up with a tiered
18 registration rules if they weren't enforceable or now
19 they're no good? So we're going to go back down to 100
20 tons or start over again. I would think with the
21 registration tiers and the LEA's enforcement, and if you
22 need a financial insurance have them put up a bond. But
23 that way if they don't perform, you have the financial
24 ability or capability of going in there and getting the
25 site cleaned up, so there's not going to be anybody

1 walking away from it.

2 As far as what Mr. Paparian had mentioned with
3 the solid waste permit, if it's inevitable that everybody
4 is going to have to get one some day to recycle this
5 debris, then give us the timeframe that he's talking
6 about, because it's not -- as Mark was out there and our
7 LEA said, you won't even get it in a year's time, that'll
8 get the process going. But if that's something we have to
9 do as an industry, to recycle this waste, then I mean
10 that's the direction we need to head.

11 But give us some time. And it's not something
12 I'm going to be able to go out and write a check for all
13 at one time either, because we still have to operate the
14 business that we're doing now.

15 The idea of just going out and getting a permit
16 for an existing facility, when the -- you have to notify
17 all the neighbors around. And I've mentioned this to you
18 in the September meeting, that now we have a solid waste
19 facility. And when people think of solid waste, they
20 think municipal solid waste, garbage. Well, that's not
21 what we do. So I would like, if you can, some type of
22 clarification that when we go out for this new permit or
23 full permit, that we are a C&D recycler. We're not a
24 solid waste -- in my definition, a solid waste. Its just
25 a bad image to -- you know, I'm not saying anything bad

1 about the garbage people because everybody generates it,
2 so don't get mad at me.

3 So, anyway, it's just the image that is thrown
4 out there to everybody that you are going to process
5 garbage. And we don't do that.

6 So I would -- Ms. Paparian, that's a great idea.
7 Let's work with staff on that. If that's a direction that
8 the industry is going to go, then we'll move forward in
9 that. But let's give it the perception when we go back
10 out to go get this new permit or amend the permit that we
11 have, it is not this garbage recycling facility.

12 You see the article that I put in front of you,
13 is that there's a waste hauler in Florida, In Pembroke
14 Pines, that's suing the city right now because of the fact
15 that Pembroke Pines claims construction and demolition
16 debris is included in the definition of solid waste.

17 And what's happening is that man can't haul his
18 own debris because it's a vague -- unfortunately it's
19 vague, and we want to clarify it, referring to the state
20 law.

21 Just make sure that whatever law -- or
22 recommendations come up, that they are so clear that we're
23 not going to end up, you know, as a demolition industry
24 fighting the franchisee in whatever town or city that we
25 go into.

1 Thank you very much.

2 CHAIRPERSON PAPARIAN: Okay. Thank you.

3 Mr. Jones.

4 COMMITTEE MEMBER JONES: Just a quick comment.

5 You know, our staff when they visited your place
6 said it was outstanding. They didn't see any garbage.

7 They can't say that -- and this is -- you know, I
8 mean Mr. Munoz says trust our staff. Our staff changed
9 their mind after they went out and look at 19 facilities.
10 So they saw garbage under the guise of C&D recycling.
11 Yours wasn't one of them. Yours they were very impressed
12 with, didn't see any residual, didn't see any garbage.

13 But C&D has always been part of the definition of
14 solid waste in the State of California, forever. But it's
15 one of the things that we want people to recycle. It's a
16 little different argument than Florida, you know.

17 MR. KROEKER: And with the association that I'm
18 in, there are people -- and I'll use Ohio as an instance
19 there -- the guy on the Recycling Committee owns a
20 solid -- he owns a landfill. He thinks it's the craziest
21 thing there is to recycle it when he's got this big quarry
22 that they would doze it into. You know, there's different
23 philosophies throughout the country.

24 And ours in California, obviously we're trying to
25 recycle it. We have different views than what they have.

1 Thank you.

2 CHAIRPERSON PAPARIAN: Thank you.

3 Greg Pirie now.

4 We have -- I was informed that we have -- we're
5 going to need to be out of here at 4:30. So I'm going to
6 ask -- I have eight people left to testify. So if you're
7 points have been made, if you can be as brief as possible,
8 that would be appreciated. I'm not going to put time
9 limits on anybody yet. But we don't have a whole lot of
10 time left for our Committee meeting today.

11 Mr. Pirie.

12 MR. PIRIE: Good afternoon. Greg Pirie, Napa
13 County LEA. And I will be brief.

14 My main issue has to do with enforcement. And of
15 course a lot of LEA's in the state have in many packages
16 tried to have their comments kind of tailored to making
17 sure whatever's on paper can be enforced by the LEA.

18 But more specific in here -- and I haven't talked
19 to Allison yet. And I know one of these sections looks
20 new and one of them may be from an existing previous
21 version. But referring to 17381, some of the activities
22 that are not subject to the C&D regulations getting more
23 specific with recycling centers. Obviously sites that
24 would be exempt we would not have a permit on, and thus
25 not go to that facility unless there was a complaint or

1 something similar. And some of the language that was put
2 in refers to residual removal within 48 hours, or
3 alternative frequency approved by the EA. And also
4 specific to inert debris recycling, discusses storage
5 limits, extending terms and conditions by the EA at their
6 discretion if referred to. And also reviewing storage
7 plans.

8 So I'm just kind of concerned that as an LEA we
9 might be going to a facility that we don't have a permit
10 on, is excluded, we don't regulate, but we would also be
11 subject to having to go in there and have conditions put
12 on there. So I would recommend, and I will do this in the
13 formal comment period and talk to staff. I have no
14 problem with that.

15 But I would like to have some kind of specific
16 timeline. Whether it's 48 hours or 72, that's fine. But
17 something that is set on paper to where an LEA doesn't
18 have to come into a site, that they do not regulate, but
19 would have to have almost the same function as though they
20 did regulate it.

21 So that's kind of one of my concerns. And I'd be
22 happy to, you know, discuss any other issues that you
23 brought up from the LEA side since it's been maybe 15 to 1
24 industry to LEA. So I'm here if you need anything.

25 And, also, our Bay Area group's getting together

1 tomorrow to discuss these specifically and maybe one other
2 package. So if you wanted me to bring anything over that
3 way and to bring it back to you, please let me know and
4 I'll get back to you.

5 CHAIRPERSON PAPARIAN: Any response to the
6 suggestion I made about a registration tier for a few
7 years, during that which time people would need to get a
8 full permit?

9 MR. PIRIE: You know, the only real difference
10 that I see with registration is that it's going to take
11 less time to go across the LEA's desk. And obviously it's
12 going to stop at the LEA's desk because it doesn't have to
13 have Board approval. But if you really look at what has
14 to be done in the registration, you know, even though on
15 paper it doesn't say that you have to have CEQA approved
16 and it doesn't say that you have to have a use permit with
17 your application, what I've seen especially with compost
18 is that I'll have people come to me and say, "Okay, I'm
19 notification now. But I might want to be jumped up to
20 registration. What do I have to do?" Well, I say, "Okay,
21 it's going to be real simple to come across my desk." But
22 as soon as it's a business, at least 95 percent of the
23 time you will have to do a use permit whether it's on
24 paper or not. And you will have to do CEQA through the
25 planning department.

1 So the only difference in timelines that I can
2 see is that the LEA approval's going to be a lot shorter.
3 So, you know, in the general sense it's very similar to a
4 full permit once you get down to it. So you may save two
5 months, I would guess. That's my estimate. But it's
6 going to be very similar.

7 CHAIRPERSON PAPARIAN: Okay. Thank you very
8 much.

9 Larry Sweetser, followed by Shane Gusman,
10 followed by somebody from Waste Management.

11 MR. SWEETSER: Good afternoon. My name is Larry
12 Sweetser on behalf of the Rural Counties Environmental
13 Services Joint Powers Authority.

14 I'm not going to enter the fray of the other
15 speakers.

16 I've got a different issue I want to bring before
17 you. And I will be brief. And I've spoken with staff,
18 and I believe it's a simple fix to clarify and hopefully
19 noncontroversial. And that's the issue of the storage of
20 materials at public works storage yards. Cities,
21 counties, even CalTrans has these kinds of areas where
22 they store road base, concrete, other types of materials,
23 sometimes for extended periods of time. Sometimes it
24 includes materials that may have once had another purpose
25 or were recycled materials.

1 It's not clear in the regulations looking at it
2 that these activities are actually outside of the
3 regulatory purview. We just wanted to make it explicit
4 that it was. As I've said, I've talked to staff. I've
5 submitted some comments, and hope you consider those in
6 the next round of changes.

7 So thank you very much.

8 CHAIRPERSON PAPARIAN: Thank you.

9 Shane Gusman.

10 And, Mr. Gusman, thank you for your patience all
11 day long. I know you're not used --

12 MR. GUSMAN: Thank you. Thank you, Mr. Chairman.
13 Shane Gusman appearing on behalf of the Teamsters Public
14 Affairs Council.

15 I spoke at your last Board meeting, so I won't
16 take up too much of your time. Again, our concern is
17 primarily -- our focus of our concern is with the tonnage
18 level. And we would support the folks that have testified
19 here on the 100-ton level.

20 Our view is that there is a health and safety
21 issue for our workers. Even though we have been talking
22 to your staff and talking to folks on the Board, it's not
23 necessarily within your purview to regulate for health and
24 safety of workers. Regardless of that fact, what you do
25 affects them. And specifically with respect to the

1 difference between permitting and registration, at the
2 permit level you at least have some site specific
3 conditions that can be placed on the permit. While those
4 may not be directly related to workers, the workers do
5 benefit from that health and safety conditions on the
6 permit. So we would support going to the 100-ton level.

7 I think you're idea, Mr. Paparian, as clarified
8 by Mr. Jones about some sort of grandfathering in or
9 giving some extra time is definitely one that I'm willing
10 to take back to my folks and discuss. It may have some
11 merit, and I'm willing to come back to the Board and let
12 you know what they say.

13 Thank you.

14 CHAIRPERSON PAPARIAN: Thank you very much.

15 I have speaker slips from Chuck White and George
16 Larson. I assume Chuck is gone and George will be
17 presenting.

18 MR. LARSON: Yes.

19 CHAIRPERSON PAPARIAN: Okay. Go ahead.

20 Followed by Chuck Helget, followed by Mark
21 Murray.

22 MR. LARSON: Thank you, Mr. Chair.

23 I in the interest of time will say that for the
24 record Waste Management would support the positions of the
25 testimony provided by the California Refuse Removal

1 Council today, both the associations and the member
2 companies and individual spoke persons. Overarching that
3 statement is the fact that it's been years in the making,
4 as we all know. We need some certainty out there in the
5 regulated community, so our encouragement is to move
6 forward. And let's get some regulations out there in the
7 field so we know what the rules are to -- everyone knows
8 what the rules are to play by.

9 Thank you.

10 CHAIRPERSON PAPARIAN: Thank you,
11 Mr. Helget.

12 MR. HELGET: Mr. Chairman, Members of the
13 Committee, Chuck Helget representing Allied Waste.

14 We also believe that this regulatory package
15 needs to move forward. And, again very briefly, and
16 reiterate a couple of points. One is we support the 100
17 tones per day. We support staff's recommendations to
18 remove the term "debris." And we believe that there needs
19 to be a residual, some sort of cap on residual, 10 percent
20 or something near that.

21 Very briefly in support of those comments, we run
22 permitted facilities. We also recycle. And I think that
23 point gets lost oftentimes in the debate between who's a
24 recycler and who's a solid waste handler. And we do a lot
25 of recycling. Newby Island, who's been bounced around in

1 reference and testimony earlier today, has one of the few
2 carpet recycling programs in the state. So there is
3 innovative stuff going on at permitted solid waste
4 facilities as well, and I don't think that point should be
5 lost.

6 Everybody that's testified here today on the
7 business side of things is in the business of handling
8 waste, some sort of waste. And in doing that, thresholds
9 that you're discussing, the 100 tons per day, the
10 residual, those aren't issues that drive people out of
11 business. Those aren't issues that are on your margin of
12 whether you're in business or out of business. Those are
13 issues of whether or not you have to get a solid waste
14 facilities permit. And we think if you're doing something
15 similar to someone else, and that person's required to get
16 a solid waste facilities permit, simply put, then you
17 should as well.

18 Thank you.

19 CHAIRPERSON PAPARIAN: Thank you.

20 And, Mark, I believe you're the newest parent in
21 the room. And I think I speak on behalf of all of us,
22 congratulations.

23 MR. MURRAY: Thanks a lot. Appreciate it.

24 Mark Murray with Californians Against Waste.

25 Really appreciate the time and thoughtfulness that your

1 staff and the Board has put into this issue.

2 Frankly, we're struggling with the same issue
3 that I think your staff is in terms of how to strike a
4 balance between a desire to protect existing C&D recycling
5 enterprises, at the same time establishing regulatory
6 framework that protects the public safety and the
7 environment. And I think that we're moving in the right
8 direction.

9 Mr. Paparian, your comments in terms of the
10 compromise that I sense that you're trying to strike here
11 in terms of some kind of differential time line, seems to
12 me that that is moving in the right direction. There are
13 a couple of specific concerns I want to site and, frankly,
14 maybe I need a little bit more time to see if this new
15 approach of -- instead of having the dual definition of
16 debris and waste, if we just have a waste definition. I,
17 frankly, had some of the same concerns that Joan Edwards
18 had voiced about we wouldn't want to see existing C&D
19 recycling enterprises that are operating outside of a
20 franchise all of sudden if someone was to make some
21 interpretation that because of these regulations and this
22 definition of waste, that all of a sudden they would be
23 thrown into an existing franchise agreement. And,
24 frankly, we'd like the policy to be neutral on that.

25 I'm not sure whether the definition, frankly,

1 affects that; and I could, frankly, use a little bit more
2 time to try and make sure that that's the case. So if
3 it's possible to -- I kind of liked the idea of the two
4 definitions because it kind of gave one an argument to
5 make both sides, depending which way you were.

6 But if we're going to go with just the solid
7 waste definition, whether there's some kind of
8 communication from the Board that says that it's not the
9 intent of this singular definition to throw these existing
10 C&D folks that are outside of a franchise into a
11 franchise, that might be helpful.

12 The second thing is that it does bother me. I
13 want to protect these recycling enterprises. At the same
14 time it's frustrating to me that the only -- that we
15 consider it so onerous, that a permit is such an onerous
16 thing, that it's considered a barrier to entry for
17 businesses. And the fact is that, you know, unfortunately
18 I find that we do that too much where we say if you're
19 doing this recycling enterprise, that somehow you're
20 outside of the permit structure. And somehow our permit
21 structures have become apparently so unfriendly that it's
22 perceived as being this extraordinary barrier to entry.
23 And maybe what we need to do is take a closer look at our
24 solid waste facility permitting requirements in general
25 and the process and see what we can do to facilitate that

1 so that everyone isn't just thinking that it's the death
2 knell to do a solid waste facility permit.

3 Having said that, again we're inclined to support
4 the direction, Mr. Paparian, that you've outlined.

5 The one thing that we might fold into that, some
6 recognition of -- on the tiered permitting and the lower
7 permitting having some residual percentage in there,
8 where -- and, again, I'm not sure what the percentage
9 should be. But it seems to me that if somebody is going
10 to be outside of the permit world, whether it's 100 tons
11 per day or higher, it seems to me that there should be in
12 general with these facilities some obligation to achieve
13 some level of diversion.

14 I think that's it. Thanks.

15 And I guess I'm hoping that maybe -- I could use
16 the extra month. So I'm kind of hoping that Mr.
17 Cannella's suggestion of maybe we'd put this over for one
18 more month, I would appreciate. Although I do appreciate
19 it's time we get this regulation in place.

20 Thanks.

21 CHAIRPERSON PAPARIAN: Okay. Thank you.

22 I think Mr. Jones might have a question for you.

23 COMMITTEE MEMBER JONES: Just one quick, thing,
24 Mark.

25 The term "C&D waste" has always been there. It

1 got changed early in this process to "debris." It became
2 an issue because of that change. It had always been C&D
3 waste. And it was one of the issues, it's a waste till it
4 gets recovered, right, and recycled.

5 MR. MURRAY. Right.

6 COMMITTEE MEMBER JONES: So I don't think that
7 anybody was --

8 MR. MURRAY: Mr. Penay just educated me on that
9 issue. But, again, we do have that same concern. Again,
10 I don't think it's your staff's intent. I don't think
11 it's anyone's intent to drive these existing C&D recyclers
12 out of business. And, again, I think that you've achieved
13 a balance here hopefully in terms of the structure of this
14 regulation. I think that what Mr. Paparian's proposing
15 will help us get there. And, again, that's our concern,
16 is we want to make sure that these existing recycling
17 enterprises can continue -- and to flourish.

18 But thank you.

19 CHAIRPERSON PAPARIAN: Thank you.

20 Let me make a suggestion in terms of direction
21 for the next month. I think -- you know, speaking for
22 myself, I would like to see, you know, a proposal come
23 back before us in a month if that's possible to put
24 together. And I know that there are timeline concerns
25 with getting these done and the timeframe that OAL

1 requires. But I think it ought to be possible to come
2 back with something in a month.

3 What I would suggest is -- and I'd love to here
4 comments from other Board members. What I would suggest
5 is for staff in that time period to pursue what a proposal
6 would look like, and perhaps even draft some language for,
7 you know, consideration next month, a proposal that would
8 include a registration tier initially at 100 tons, but
9 with a phase out of the registration tier over an
10 appropriate period of time, and that that appropriate
11 period of time allow for a relatively short period of
12 time, perhaps in the neighborhood of six months, to begin
13 the process of trying to seek a full permit, followed by a
14 time of actually acquiring that full permit.

15 We heard from Mr. Edgar that it might take two
16 years at the outside to get a full permit. We heard from
17 Ms. Edwards that it takes two and a half to three years at
18 times in the Los Angeles area to get a full permit. So
19 there may be some exploration needed of what an
20 appropriate time period would be to allow for folks to get
21 a full permit.

22 So we may be talking about something like six
23 months to begin the process, maybe three years, three and
24 a half years to get the full permit depending on what
25 staff finds out there.

1 There was also a -- there's some questions raised
2 on the definition. I'm not sure what to suggest on that
3 other than the staff perhaps explore whether Mr. Munoz'
4 idea has any merit, that is, to really suggest what subset
5 of material would actually be allowed in these facilities
6 that would be subject to these regulations.

7 And then my final suggestion -- I know -- again
8 just speaking for myself, I would like these regulations
9 to be neutral on the issue of franchises, not really
10 affect them one way or another. And if there's any
11 evidence to suggest that they're pushing things one way or
12 another, depending on how we're defining things, I would
13 like to know that and I'd like staff to endeavor to not
14 have these regs affect one way or another as they go into
15 place the issue of franchises.

16 So that's my suggestion. And I look to my fellow
17 Board members to see if they have any comments on how
18 they'd like to proceed.

19 Mr. Jones.

20 COMMITTEE MEMBER JONES: Mr. Paparian, just a
21 couple of things. Number one, I like your idea. But I am
22 going to, at the risk of making folks crazy -- you had
23 said 100 tons registration, go to -- did you mean 500 and
24 then go down to 100, or did you mean 100?

25 CHAIRPERSON PAPARIAN: At 100 you would need the

1 registration.

2 COMMITTEE MEMBER JONES: Okay. And then we're
3 working towards that that would go away and it would be
4 full over a three or four year period of time?

5 CHAIRPERSON PAPARIAN: Right.

6 COMMITTEE MEMBER JONES: Okay. That's fine.
7 That works for me.

8 And I think one thing on the -- I agree with you
9 on the franchise language. Okay, I don't think these
10 should impact franchises. But I don't think that the -- I
11 think one thing, we have to keep it in perspective. We
12 had an existing system that lasted and had been in place
13 really probably -- where's Elliot? -- probably since the
14 '70's, right, on these definitions?

15 Seventy-six?

16 So in '76 we had definitions where C&D was part
17 of solid waste. So that being said, that's what the
18 status quo was and has been until the term "solid waste"
19 got changed in this proposed reg package from "waste" to
20 "debris." So it had always been that way. And I think
21 what you're saying is, whatever that was is what this
22 should be, right? Because that didn't give an advantage
23 to anybody. But, remember, every ordinance in every
24 jurisdiction relied on that existing definition when it
25 determined how it was going to set up its solid waste

1 stream, which is a local issue.

2 Is that fair to say, that that's the status quo
3 that we're aiming for, as opposed to changing that?

4 CHAIRPERSON PAPARIAN: Let me try to explain what
5 I'm -- what I'm aiming for is that once these regulations
6 are adopted, I wouldn't wanted someone to hold them up and
7 say, "Hey, that person has to go out of business now," or
8 "I have to be allowed in where I wasn't allowed in
9 before." I want it to be neutral on that issue.

10 COMMITTEE MEMBER JONES: Right. So you're still
11 going to have people screaming that.

12 But I guess what I'm saying is, so the status
13 quo, the way it was, the way everybody had survived for 30
14 years, is we don't want to impact that, right?

15 CHAIRPERSON PAPARIAN: If that has the effect of
16 accomplishing what I just suggested, yes.

17 COMMITTEE MEMBER JONES: It does, but it's what's
18 created the loophole. When we changed that to debris,
19 that's when the loophole got created because it changed
20 the way certain people could argue whether they had rights
21 or no rights, where it had always been defined a certain
22 way. And that's all I'm saying. So you're still going to
23 get people that are going to scream. They've screamed
24 forever. They're going to scream in the future. And
25 it's -- I mean that's -- but I absolutely endorse your

1 direction and I appreciate your leadership on this. And I
2 support what you're saying, I really do. I think it's a
3 great fix.

4 CHAIRPERSON PAPARIAN: Mr. Cannella.

5 COMMITTEE MEMBER CANNELLA: Yeah. First of all I
6 would like to thank the Committee members for the courtesy
7 extended by putting it over at my request. We've heard an
8 awful lot today. I think we're certainly closer to a
9 compromise than we were before we started. I appreciate
10 the leadership of the Chair in proposing it. And, again,
11 it was a very complex issue for me. I had my mind made up
12 three different ways three different times. But today was
13 very informative and I appreciate again the courtesy. And
14 I think that we will have an adoptable set of regs in the
15 near future because of the put-over for the 30 days and
16 the conversation we had today.

17 Thank you.

18 CHAIRPERSON PAPARIAN: Does the staff feel that
19 this provides enough direction for the coming month?

20 MR. de Bie: If I could ask a few clarifying
21 questions.

22 When looking at the concept of registration
23 permit and then phasing into full permit, a scenario comes
24 to mind where -- if we're saying everyone at a 100 or
25 above eventually will have a full permit, right now the

1 way the regs are drafted it's between 100 and 500 is
2 registration. So if you're over 500 should you not even
3 bother with the registration and just start working on a
4 full? Or do we allow them to enter into the registration
5 and have the same timeframe to get to the full even though
6 over 500 or 750 or whatever they would need to have full?
7 So would we basically be setting up a scenario where those
8 between 100 and 500 would be at registration temporarily
9 for a few years, but anyone above 500 would be getting a
10 full right away?

11 CHAIRPERSON PAPARIAN: Good question.

12 COMMITTEE MEMBER CANNELLA: We could have staff
13 come back with a recommendation.

14 CHAIRPERSON PAPARIAN: Yeah, I think -- I mean I
15 think again we don't want to put someone out of business
16 because they couldn't get the full permit in six months or
17 whatever the time --

18 MR. de Bie: I believe what the testimony was is
19 the timeframe associated with getting a full is what's
20 bothersome. So, you know, if on the day the regs came in
21 effect they'd needed to get a full, they would still have
22 that hurdle to jump over. The registration phasing in
23 allows them to work towards that.

24 CHAIRPERSON PAPARIAN: Yeah, and I think -- yeah,
25 I mean I'd be inclined to allow the registration. That

1 kind of brings them among the fold of being subject to the
2 enforcement activities during the time period.

3 MR. de Bie: Okay. So we can develop a scenario
4 that looks like that and move forward.

5 On the definition having the concept of two
6 definitions, one sort of a broad definition of C&D is
7 this. And then a second definition of, to be a C&D
8 processor you only take in this subset of the C&D. Is
9 that how we are to understand that particular concept?
10 You mentioned Patrick's idea. And that's our
11 understanding of Patrick's ideas. Sort of a broad general
12 definition of C&D, and then a second definition that
13 basically says if you're taking this subset of C&D, then
14 you can be a C&D processor.

15 CHAIRPERSON PAPARIAN: Yes. And that's -- my
16 intention there was to help further clarify what's subject
17 to these regulations would not be solely for taking
18 garbage-like material.

19 MR. de Bie: Right.

20 CHAIRPERSON PAPARIAN: If it's not workable, then
21 you'd be able to come back and tell us. But I'd like you
22 to explore that --

23 MR. de Bie: I think for all of these we'll be
24 trying to work closely with industry, both sides, C&D and
25 traditional waste industry.

1 Timing for December is tight. The Committee's
2 early. So in effect we have two working weeks -- two
3 business weeks to get it done. There's a holiday in
4 there.

5 So we'll attempt to get that. I don't know how
6 baked it will be for Committee, but maybe baked enough
7 where we can get it noticed and continue the discussion.
8 I don't know if we'll have it in the complete form. But
9 as Bob Holmes said, we do have time for additional comment
10 period to refine things after that.

11 And then just a comment about being neutral
12 relative to franchise. We'll need to be looking at again
13 the industry to identify for us what in their opinion is
14 neutral or not. As Mr. Kroeker indicated, that a lot of
15 this is resolved in the courts eventually. So I don't
16 know how assured we can be on whatever we come up with
17 will be as neutral as possible, but certainly we can give
18 it our best shot.

19 CHAIRPERSON PAPARIAN: Okay. Thank you.

20 Anything else on this?

21 Now, we have one public comment. Justin Malan,
22 who's been waiting patiently. Hopefully this has been an
23 educational experience for you as you've been sitting --

24 MR. MALAN: It always is, Mr. Chairman. Thank
25 you for your indulgence. Sorry to have missed Item G.

1 I did want to start off thanking the staff for
2 their excellent involvement with the LEA's on this reg
3 package extraordinaire. You've had about 10 of them go
4 through over the last couple of months, and they've done
5 an outstanding job.

6 And I've said before that we use the Waste Board
7 as an example to other Cal/EPA and other agencies for how
8 to do a reg package. Maybe we should leave out today, but
9 generally they do an outstanding job.

10 I wanted to get back to Item G because I think it
11 sets a precedent that we did raise when we discussed this
12 and when that issue went to the emergency regulations.
13 And I'm really kind of reluctant to raise this point up.
14 But I feel it's important.

15 We're not opposed to a precedent for the
16 precedent's sake. We can't make progress without
17 precedent. But in Item G where we talk about the
18 stipulated agreement, if you remember, that was to some
19 extent a response to the audit. It was a response to a
20 flawed policy, which I believe the Board has scrutinized,
21 evaluated, and come up with an outstanding resolution that
22 the LEA's are very supportive of.

23 We have one relatively small concern, but it's an
24 ideological issue that I think you need to be aware of
25 even if you don't accept our suggestion. Where we say

1 that once the LEA has prepared a stipulated agreement,
2 that that agreement is then submitted to the Board and the
3 Executive Director, with respect, Mark -- no reflection on
4 Mark -- but that someone on the Board can second guess,
5 can change, tinker with, that stipulated agreement done by
6 an LEA sets a dangerous precedent.

7 You are fusing two regulatory agency
8 responsibilities. You are fusing the responsibility of an
9 LEA, who is your delegated agency at the local level. Up
10 to now you've said, "Go forth. Do your job. If you screw
11 up, we're going to evaluate you and you're going to get
12 axed." And we support that. Now what you're saying is,
13 "Go forth. Do your job. If we don't like it, we're going
14 to tinker with it."

15 We are the ones that carry the can at the local
16 level. We need to go, issue that stipulated order, issue
17 the enforcement order, do whatever we have to do. And we
18 will stand by that, stand in full perhaps by that. But we
19 do not like the precedent being set where we'll come up
20 with an enforcement order, a stipulated agreement, submit
21 it for a half baking with the Board, and then go back,
22 face our piper, and not be sure whether it's an LEA
23 stipulated agreement or the Board's stipulated agreement.
24 It's a very, very important precedent even though it's a
25 very small issue.

1 Other than that, we like the reg package. And
2 we'd simply ask for you to strike out that section
3 17211.9A, because we really don't believe it's necessary,
4 and it's a slippery slope we don't want to go down with
5 you.

6 Thank you.

7 CHAIRPERSON PAPARIAN: Thank you.

8 Anything else?

9 Mr. Cannella.

10 COMMITTEE MEMBER CANNELLA: Just one thing on the
11 last issue, on the C&D. We also just talked about
12 definition or the percentage of residuals. And also
13 on-site storage, I think that we need to include that in
14 any report back.

15 CHAIRPERSON PAPARIAN: Okay. Thank you, Mr.
16 Cannella.

17 Anything else?

18 This meeting is adjourned.

19 (Thereupon the California Integrated
20 Waste Management Board, Permitting and
21 Enforcement Committee adjourned at 4:30 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 30th day of November, 2002.

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23 JAMES F. PETERS, CSR, RPR
24 Certified Shorthand Reporter
25 License No. 10063